

CHAPTER 6

RELOCATION AND ACQUISITION

Please Note: This chapter has two sections: “Relocation” and “Acquisition”. The Relocation section starts below, and the Acquisition section starts immediately after Relocation.

RELOCATION & DISPLACEMENT

I. INTRODUCTION

This chapter is to be used solely for relocation and acquisition guidance for CDBG projects. While the HOME and UDAG programs are mentioned in the chapter, this chapter is not to be used as a reference source for these two programs. If one dollar of CDBG funds is invested in a project where acquisition, rehabilitation, demolition, or code enforcement activities are involved, then grantees are responsible for ensuring that proper relocation processes are followed and benefits delivered in compliance with appropriate relocation and acquisition laws.

Federally funded activities that involve displacement or relocation (temporary or permanent) or which involve the demolition or conversion of residential units occupied by low-income households must comply with the requirements of two Federal laws. In some cases relocation of businesses may take place and as such, a business relocation plan must be developed and followed in accordance with the current governing regulations listed below. In addition to complying with federal relocation laws, the grantee will also be required to comply with state relocation laws that are different or provide more benefits to persons being displaced.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Uniform Relocation Act Amendments of 1987 (URA) contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program in which HUD financial assistance (including CDBG and HOME) is provided. The implementing regulations, 49 CFR Part 24, include steps which must be taken with tenant occupants, including those who will not be impacted by the HUD assisted activity. This year URA was amended as of February 3, 2005. Links to the copies of the revised regulations are: **PDF Version:** <http://a257.g.akamaitech.net/7/257/2422/01jan20051800/edocket.access.gpo.gov/2005/pdf/05-6.pdf>

Section 104(d) of the Housing and Community Development Act of 1974, as amended, provides that, as a condition for receiving assistance under CDBG or HOME, the grantee or contractor must certify that it is utilizing a residential anti-displacement and relocation assistance plan (RARAP) for their grant. Section 104(d) further requires relocation benefits to be provided to low-income persons who are displaced as the result of a CDBG- or HOME-assisted project and establishes requirements for the replacement of low-income housing, which is demolished or converted. The implementing regulations for Section 104(d) can be found in 24 CFR Part 570(a).

HUD Handbook 1378 consolidates the basic statutory and regulatory requirements of the URA and Section 104(d) and related implementing regulations, including Handbook 1378 Changes 1-4. It is a comprehensive and valuable reference for all jurisdictions participating in the State CDBG and HOME programs.

A copy of Handbook 1378 is available on HUD's website by following the next few steps on your computer. First you type in www.hudclips.org on the web browser's search box and **CLICK ON Search**. This will take you to hudclips home page. Scroll down until you see **Handbooks and Notices**. **CLICK ON the Community planning and development item, "Both" Circle**. **CLICK ON Browse**. Scroll down the list of documents until you come to the 1378 files. You will be looking at a table of contents, which you can use to open different chapters of the Relocation Handbook to review and print out as needed. You will also be able to access HUD relocation forms under the appendixes and print them out as needed during the relocation process. Hard copies of Handbook 1378 may also be ordered on line from www.hudclips.org. Relocation information for displaced persons is also available at the Federal Highway Administration's web site at www.fhwa.dot.gov/realestate/relrght.htm.

See Section VII Supporting Materials, in this chapter for a sample housing rehabilitation temporary relocation plan. The most common type of relocation activity for State CDBG grantees is "temporary" relocation of tenants or owners as part of housing rehabilitation programs. Temporary relocation requires the necessary notices and benefit calculations but it is simple enough that most rehabilitation program operators can manage the process. Permanent displacement, where the tenant is not able to return to the unit, is not as common and involves very complex counseling and benefit calculations. Therefore, it is strongly recommended that grantees call their CDBG representatives as soon as they know they will be displacing persons permanently to assess if they have the staff available to do this very complex set of tasks.

Relocation activities can be paid for with general administration funds, activity delivery funds or actual activity funds. CDBG funds can be used solely for relocation costs on projects funded by other federal programs, such as HOME.

Please note: Business relocation is the most complicated and expensive type of displacement activity and it must be planned for well ahead of time and factored into a project's development budget from the very beginning. Most often this relocation leads to attorneys being involved so care needs to be taken in the process.

II. GRANTEE RESPONSIBILITIES FOR TEMPORARY RELOCATION.

Under **URA** grantees must minimize the displacement/relocation of persons. When relocation is needed, grantees must provide reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary and affordable replacement dwelling. The grantee must also ensure that proper funds are available to comply with relocation regulations. The first statement refers to project selection and implementation. It does not mean, for example, that grantees keep persons in their housing units during rehabilitation if those units are not safe and sanitary. Grantees should error on the side of caution especially if lead paint hazards are present and relocate persons for the project.

Under **Section 104 (d)**, relocation assistance **AND** replacement of housing units is triggered for CDBG funded projects. This regulation only provides relocation benefits for low income persons who have been “permanently” displaced because of demolition or conversion of housing units as part of a project. As such, Section 104 (d) does not apply to projects where persons will only need temporary relocation. However, be aware that if the scope of your rehabilitation project involves eliminating “affordable” housing units (due to presence of “illegal units” or “non-conforming zoning” or raising rents above HUD rent limits on units occupied by low income persons), then you may trigger Section 104 (d) relocation requirements. So read and understand the details about what may or may not trigger Section 104 (d) relocation and if you have any question about a project, then call your representative for clarification.

The majority of CDBG activities funded are single family housing rehabilitation programs. The relocation activities most commonly associated with these rehab programs is temporary relocation. All grantees must submit a rehab program temporary relocation plan as part of their grant’s special conditions prior to release of funds for housing rehabilitation activities. A project specific relocation plan is required when rehabilitating large existing multi-family housing projects prior to release of funds. Also, for multi-family rental projects, grantees must submit copies of the General Information Notices (GINs), given to all tenants in the project prior to submittal of the application, before release of funds. The GINs must be signed by the tenant to document that they have information about their relocation rights.

All households participating in any CDBG funded program/project who may be eligible for relocation benefits must have their relocation rights explained, especially tenants. You should always error on the side of caution and send a GIN early in the project to cover your noticing obligation. In most cases, rehabilitation participants will not be required to move permanently, but may be required to relocate temporarily for the project. The relocation requirements differ between owner-occupants, who are viewed as voluntary participants in the activity and tenant-occupants who are not. **See Section VIII Supporting Materials in this Chapter for Sample Rehabilitation Program Temporary Relocation Plan with supporting documents.**

Timeline for a Typical Temporary Relocation Process Under a Rehab Program: The Initiation of Negotiation (ION) date is the day the applicant submits a signed application to participate in the program. Upon receiving an application from an owner investor, the

program operator must send out **GIN notices** and verify that all renters in each unit know that they may be eligible for relocation assistance. Upon application submittal, an owner occupant will also be informed of any temporary relocation benefits they may be eligible for under the program and sign a statement to that affect. Once the construction inspector for the program completes the scope of work for the rehab, then it is decided if the tenant or owner occupant can stay in the unit during construction or if they must move out because of dangers due to lead paint hazard mitigation or because the unit will not be habitable. Based on what the family needs in terms of relocation assistance, funds are made available and approved by grantee as part of formal project loan approval. After the grantee approves the rehab loan, the tenant is given one of two **notices**: 1) Notice of Non-displacement; 2) temporary relocation benefit notice. The program operator must also give the tenant a 90 notice to move if they will be moving temporarily.

1. Temporary Relocation for Owner-occupants: You have the option of offering temporary relocation to owner-occupants. If you choose to offer temporary relocation benefits then you may choose to give the benefits as a loan or a grant. The important thing is to treat each participant equally in accordance with your plan. Temporary relocation is typically given when units are being substantially rehabilitated or reconstructed, such that occupants will loose the use of their bath or kitchen facilities for a number of days. With the new Final Lead Based Paint Rule, HUD says that you must relocate owner occupants who are having lead based paint mitigation done to their house but does not require that you pay for such relocation. When offering relocation benefits to owner occupants, you must offer equivalent benefit to all of participants and you may restrict the amount of funds, i.e. maximum relocation grant of \$500. These benefits may be equivalent to but must not exceed those offered to low-income tenants. To exercise this option, you must:
 - a. Have a written policy, usually within the "Rehabilitation Residential Anti-displacement and Relocation Assistance Plan", which makes temporary relocation benefits available to all participating TIG owner-occupants which require temporary relocation; and,
 - b. Include in your program guidelines and temporary relocation plan a description of the available relocation assistance which is typically a reference to the adopted temporary relocation plan.
 - c. Provide all owner occupants a discloser on the type of relocation assistance available and have the discloser signed accepting benefits if they need to leave their home temporarily or signed that they understand that they will not need to move out temporarily. Include in the disclosure a list of eligible benefits they want to have reimbursement for. **See sample notice in Appendix C of housing rehab relocation plan at the end of this chapter.**

2. Noticing Tenants As Part of Temporary Relocation: When necessary or appropriate, residential tenants who will not be required to move permanently, may be required to relocate temporarily for the project. It is very important to notice the tenants as soon as interest is shown in a project. In some cases, a multi-family rehabilitation project may be identified prior to submitting an application to the state for funding, in which case, all the tenants must be notified with a GIN before the application is approved for submittal to the state. A project specific relocation plan must be submitted with the application for funding (it may not have gone through the full public comment process. In most cases for scattered site housing rehabilitation programs, tenants are notified as soon as an owner investor submits a loan application. Notices should be sent certified mail with return receipt requested or given to the tenant in person and signed by the head of household.
- a. General Information Notice: All tenant occupied households must receive a "General Information Notice" which explains that the project has been proposed and cautions the household not to move and that the household will not be displaced. (A suggested "General Information Notice" is contained in **Appendix 2** of HUD Handbook 1378.) For residential tenants, the failure to provide this notice on a timely basis may result in the household moving permanently and being determined eligible for full relocation assistance as a displaced person(s).
- b. Notice of Non-displacement: Promptly after the "initiation of negotiations" (i.e. the execution of the loan agreement between jurisdiction and the person owning or controlling the property) each household occupying property in the project shall be issued a Notice of Non-displacement. The notice shall tell the tenant if they will be temporarily relocated or not and contain the reasonable terms and conditions under which the household may lease and occupy the property upon completion of the project. (A sample Notice of Non-displacement is contained in **Appendix 4** of HUD Handbook 1378.)
- c. Discloser of Temporary Relocation Benefits: As part of providing relocation counseling a disclosure should be given to the tenant outlining what they will receive for benefits and the time frame for when they will be relocated. **See sample disclosure in sample temporary relocation plan at the back of this chapter.** Tenants must also be given a 90 day notice to move. This does not mean that you can not negotiate a shorter timeframe with the tenant (s). If you want them to move out sooner then you can work with them to facilitate your project's construction timeline, but if they want/need to stay in the unit, then they do legally have up to 90 days.

3. Temporary Relocation Benefits for Residential Tenants: Relocation assistance to tenants is always a grant (paid by grantee or owner investor). A tenant is eligible for temporary relocation assistance if the continued occupancy during rehabilitation constitutes a substantial danger to health and safety of tenant or public danger or is otherwise desirable because of the nature of the project. The local rehabilitation inspector typically makes the initial determination and that relocation decision should be approved by the local loan committee at loan approval. Temporary relocation may last up to twelve months; relocation lasting longer than twelve months may be interpreted to be “permanent displacement”.

A tenant who is temporarily relocated must be moved into a “safe and sanitary” unit but it does not have to be a “comparable” unit like in displacement activities. So it is possible to have tenants move into motels for short periods of time (two or three weeks). Relocation for more than a couple of weeks should be to a more permanent comparable unit. If they wish, tenants may move in with family and friends without being precluded from receiving full or partial temporary relocation assistance and benefits. All conditions of temporary relocation must be reasonable and all benefits should be well documented.

Jurisdictions have discretion about what benefits a tenant may receive as part of temporary relocation and typical benefits are:

- a. Increased housing costs which is any increased difference in rent between the old rent they were paying and the new rent at the unit they will occupy temporarily, including security deposits; and,
- b. Payment for moving and related expenses. The temporarily relocated tenant may receive payment for actual reasonable moving and related expenses, as follows:
 - 1) Transportation of the displaced persons and personal property. (This may include reimbursement at the current rate for personally owned vehicles that need to be moved). Transportation costs for a distance beyond 50 miles are not eligible, unless you determine that relocation beyond 50 miles is justified.
 - 2) Packing, crating, unpacking, and uncrating of personal property;
 - 3) Storage of personal property, not to exceed 12 months, unless you determine that a longer period is necessary;
 - 4) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property;

- 5) Insurance for the replacement value of personal property in connection with the move and necessary storage;
- 6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available;
- 7) Reasonable and necessary costs of security deposits required to rent the replacement dwelling;
- 8) Any costs of credit checks required to rent the replacement dwelling; and,
- 9) Other moving related expenses as you determine to be reasonable and necessary, except the following ineligible expenses:
 - Interest on a loan to cover moving expenses; or
 - Personal injury; or
 - Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before you; or
 - Costs for storage of personal property on real property already owned or leased by the displaced person before the initiation of negotiations.

Use Appendix 16 in the HUD Handbook 1378, Claim for Actual Moving Expenses with back up documents to track what benefits are paid out for each project.

- c. Appropriate advisory services, including reasonable advance written notice of (a) the date and approximate duration of the temporary relocation; (b) the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; (c) the terms and conditions under which the tenant may lease and occupy a suitable, decent, safe and sanitary dwelling in the building/complex upon completion of the project; and (d) the provisions of Paragraphs a. and b. above. **Use Appendix 21 in HUD Handbook 1378, Residential Relocation Management Report to keep track of families who are temporarily relocated.**

4. Tenant households which will not need to temporarily relocate: Timely notices are required by Federal regulations even for those tenant households which may not be displaced or temporarily relocated. All required notices should be mailed return receipt requested or the delivery otherwise documented.

Full documentation of relocation noticing and benefits must be provided in each individual project file under the rehab program or in the rental project's file. Not having the proper documentation can result in monitoring findings and possible jeopardy of future CDBG funding. Regardless of who operates the rehab program (consultant or subrecipient), the grantee is responsible for complying with all regulations under the URA and Section 104(d). In the same way, if a grantee is using CDBG funds to assist a housing developer (for or non profit) on a rental housing project, the grantee must ensure a relocation plan is prepared and implemented properly. **We recommend that grantees use Appendix 8 of the HUD Handbook, Site occupant record for each tenant project file.**

III. GRANTEE RESPONSIBILITIES FOR PERMANENT DISPLACEMENT.

Use this part of the chapter for general guidance on planning and implementation of relocation of “persons” due to real property acquisition, rehabilitation, or demolition activities funded in whole or in part with CDBG monies. Refer to HUD Handbook 1378 for details of proper procedures for permanent displacing “persons” (persons include: businesses, farms, and non-profits) with sample notices and relocation forms. The Handbook also has and information on the proper process for property acquisition with and without the use of eminent domain.

Note: In even considering a large project that may trigger displacement or eminent domain acquisition activities, a grantee should evaluate the capacity of its staff or the staff of the project developer to handle the complicated processes involved in these two activities. Often times it is worthwhile to bring in a professional relocation consultant or eminent domain attorney to complete the process and provide the grantee with proper documentation of compliance with acquisition and relocation law.

The permanent displacement section of this chapter covers the following topics:

1. URA Requirements
 - A. Uniform Relocation Act (URA) for HUD Programs
 - B. Important Terms
 - C. Why Units Must Be Comparable
 - D. What Is A Comparable Unit
 - E. Decent, Safe and Sanitary (DS&S) Units
2. Notices and Other Advisory Services
 - A. Who Needs a Notice
 - B. Required Notices
 - C. What Notices Must Say
 - D. When and How Notices are Served
 - E. Contractor Responsibility for Subcontractors
 - F. Guide Forms
 - G. Information and Counseling
3. Relocation Assistance for Residents Who Are Displaced
 - A. Factors For Calculating Assistance
 - B. Definition of Income
 - C. Income Limits
4. General Assistance Requirements
 - A. Advisory Services
 - B. Replacement Housing Assistance
 - C. Moving and Related Expenses

5. Replacement Housing Assistance-Renters
 - A. General Policy
 - B. Assistance for Tenants in Occupancy More than Ninety (90) Days
 - C. Assistance For Tenants in Occupancy Less than Ninety (90) Days
 - D. Claim For Moving and Related Expenses
 - E. Optional Relocation Assistance
6. Rights of Residents Who Remain in the Project
 - A. Rent Burden/Economic Displacement
 - B. How Much is Too Much
 - C. How Long Must Units Remain Affordable
 - D. To Avoid Economic Displacement
7. Section 104(d) Requirements Overview
 - A. Background
 - B. “Use” of HOME, CDBG, or UDAG Funds
 - C. Administrative Requirements
8. Section 104(d) Tenant Assistance and Relocation Requirements
 - A. When 104(d) Tenant Assistance Rules Apply
 - B. Key Definitions
 - C. Section 104(d) and URA; Similarities
 - D. Economic Displacement Under 104(d)
 - E. 104(d) Replacement Housing Payment
 - F. Tenant-Based Assistance
 - G. Other Costs
9. One-For-One Replacement Requirements for Demolished Units
 - A. Overview
 - B. More Definitions
 - C. Triggers for Replacement
 - D. Disclosure and Reporting Requirements
 - E. Replacement Units
 - F. Exceptions to One-For-One Replacement Requirements

1. URA REQUIREMENTS

A. Uniform Relocation Act (URA) for HUD Programs

The URA is government-wide legislation. The requirements in this chapter cover the URA as it applies to HUD programs. If you are working with other Federal agency programs, contact that funding agency for more information.

The relocation chapter in this manual focuses on the URA as it relates to occupants of residential structures (owners and renters). URA requirements also apply to non-residential occupants (businesses, farms, and non-profits) but you must look in HUD's Handbook 1378, Chapter 5 (Acquisition) and Chapter 4 (Business Relocation) to find out the correct process for dealing with this type of relocation. There are some differences in the way URA requirements are applied for specific HUD programs because of the different ways in which HUD assistance is provided.

1. Timing For Relocation Assistance Eligibility (Handbook 1378, Paragraphs 1-15)

Although URA rules do not establish a hard and fast start date that is considered to be the beginning point for eligibility, typically the **"Initiation of Negotiations" (ION)** begins when the contract (Notice of Intent) is executed. HUD also says that submission of an application to the state for funding a specific project is considered the ION.

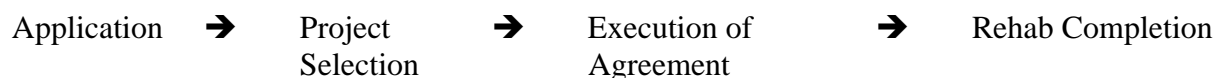
Even though the "initiation of negotiations" generally marks the date when families become eligible for relocation assistance, relocation concerns must be addressed much earlier.

- a. A project that does not proceed to the point of execution of the agreement does not trigger eligibility for relocation assistance.
- b. However, once a project reaches this point, residents may be eligible for relocation assistance because the owner or contractor failed to take appropriate steps before execution of the agreement.

Note: HUD has recommend, and HCD CDBG and HOME programs will now require that, signed and dated copies of General Information Notices (GINs) for each eligible household in the project be submitted for state staff review prior to release of funds for the project. In addition, the state will require a fully completed relocation plan for the project which has gone through the proper public comment process.

For example, the "initiation of negotiations" for a rehabilitation project is the submittal of an application from the investor to the grantee for processing. Up until that moment, eligibility for relocation assistance has not been triggered. Relocation benefits are awarded when the project funding approval by the grantee takes place and a loan agreement is executed.

Rehabilitation Timeline



2. How Displacement Is Triggered In Rehabilitation Projects

a. Eligibility Prior To Application For CDBG Funds

Generally, before application, eligibility for relocation assistance is triggered by a tenant's permanent move **ONLY IF** the contractor or HUD determines that the displacement was a direct result of the project activity [1-8b(2)].

For example, the contractor may determine that an owner has displaced tenants in order to propose a vacant building for HUD assistance (conversion).

b. After Application For CDBG Funds

Displacement is triggered when a tenant moves permanently from the property because of the following circumstances [1-8b]:

- (i) The tenant is required by the owner to move permanently. (This includes the owner's refusal to renew a lease.); or
- (ii) The contractor or owner fails to provide timely required notices to the tenant; or
- (iii) The owner fails to pay the actual reasonable out-of-pocket expenses for a temporary move or because the conditions of the temporary move are unreasonable.

c. After Execution of Agreement with the State for CDBG Funds

Displacement is triggered if a tenant moves permanently from the project because the tenant is not provided the opportunity to lease a suitable affordable unit in the project [1-8b(6)a].

3. Comparable Units (Handbook 1378, Paragraphs 1-6, 1-7 and 2-5)

B. Important Terms

The following terms are specifically defined in relation to relocation requirements:

1. Comparable Unit: One or more specific unit(s) offered by the contractor to a displaced person who in size, function, and location are as similar as possible to the unit the household is leaving.
2. Replacement Unit: The unit to which the household actually moves.
3. Referral Unit: Other appropriate (but not necessarily comparable) housing, which is suggested to the household as part of advisory services.

C. Why Units Must Be Comparable

Tenants who are displaced must be referred to at least one "comparable" replacement unit [2-5a] that is available. Comparables are used to:

1. Assure that displaced persons actually have a place to go, and,
2. Set a limit on the maximum liability for the agency for replacement housing payments because the replacement housing payment is based upon the cost of the household's replacement unit or the cost of the comparable unit if it is lower. [2-5c(1)]

D. What Is A Comparable Unit

Generally, "comparable" units must be: [1-6]

1. Similar in size:
 - a. Generally, comparable units will have the same amount of space as the original unit.
 - b. Sites should be typical in size for residential development with normal site improvements [1-6e].

Note: If the original unit was dilapidated, a smaller, decent, safe and sanitary unit adequate in size to accommodate the household may be considered comparable [1-6b].

2. Similar in function [1-6b]

- a. The unit performs the same function, service, or purpose as the displacement unit.
- b. The unit contains the same principal features.

Example: If the original unit had a separate dining room and living room, but the replacement unit has a combined living and dining area to accommodate the same activities, the replacement unit is "functionally equivalent" to the old.

Example: If the original unit contained a pantry but the new unit contains sufficient cabinets for storage of food and kitchen items, the two units are still "functionally equivalent."

3. Reasonably accessible to the person's employment;

4. Located in equal to or better area than the displacement unit vis-à-vis public utilities and commercial and public facilities; [1-6d]

- a. The location should be no less desirable than the displacement location and provide access to work, services, and facilities.

Example: Mrs. Jones is dependent upon bus transportation to get to her job. The "comparable" unit should be located near a bus line, which provides her reasonable (similar time and cost) access to her employment.

Example: Mrs. Smith is offered a comparable unit in a neighborhood across town, which, unlike her present neighborhood, is known to be unsafe and have a high crime rate. Despite the fact that the identified unit is of similar size, rent, function, and design as the original, the unit is not considered "comparable."

- b. Comparable units may not be in areas subject to unreasonable, adverse environmental conditions.

5. Currently available to the displaced person. Units are "available" if the person [1-6f]:
 - a. Has been informed of the location;
 - b. Has sufficient time to negotiate an agreement to lease or purchase; and
 - c. Receives relocation payments (as necessary) in sufficient time to complete the move or purchase.
6. Decent, safe and sanitary [1-7] (see "E" below).
7. Within the financial means (as described in the next section) of the displaced person [1-6g].

Note: Because URA requires that financial assistance be provided to assist the household to afford the replacement unit, the unit selected as the comparable is not required to be affordable by the family without assistance.

- a. The type of rental property affects whether it is considered comparable.
- b. Public housing is a suitable comparable unit for displaced public housing tenants, but not for other tenants [1-6f(2)(a)].

Example: Mr. Lopez has lived in a privately owned unit for 5 years. He is being displaced and is offered a public housing unit as his only referral. Although the public housing unit is in all other respects similar to his original unit, he has not been offered a "comparable" unit.

- c. Project-based subsidized housing (e.g., Section 8 or Section 236 projects) is an acceptable comparable for displaced public housing tenants as well as those who lived in such projects before being displaced) [1-6f(2)(b)].
- d. A privately owned unit made affordable by a tenant-based subsidy (e.g., Section 8 Rental Certificates) is an acceptable comparable for displaced persons who previously lived in a unit with a project-based subsidy) [1-6f(2)(c)].
- e. Affordable privately owned housing is an acceptable comparable for any tenant.

Form HUD-40061 (Appendix 12 of Handbook 1378) may be used to select the most representative comparable.

E. Decent, Safe and Sanitary (DS&S) Units

1. DS&S units must:
 - a. Be structurally sound, weather-tight and in good repair;
 - b. Include wiring that is safe and adequate for lighting and other devices;
 - c. Contain a heating system capable of sustaining a healthful temperature;
 - d. Be adequate in size for the household, including:
 - (i) separate, well-ventilated bath with sink, bathtub or shower, and toilet in good working order and properly connected;
 - (ii) a kitchen area with sink, potable water, sewage drainage, and space and connections for stove and refrigerator; and,
 - (iii) unobstructed access to safe, open space at ground level.
 - e. Be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling for a person with mobility impairments; and,
 - f. Comply with the lead-based paint requirements of 24 CFR Part 35 (i.e., no cracking, peeling, chipping, scaling paint; provide lead-based paint notice if children under seven will occupy the unit) [1-7a(7)].
2. Units that meet the Section 8 Housing Quality Standards are considered "decent, safe and sanitary" replacement units [1-7b].
3. Units must be inspected by qualified persons who are knowledgeable of the local housing code.

2. NOTICES AND OTHER ADVISORY SERVICES

A. Who Needs A Notice - Handbook 1378, Paragraphs 2-3 and 1-8b(3)?

1. Virtually EVERYONE needs a notice of some kind. All occupants are entitled to timely notice explaining whether or not they will be displaced.
 - a. Occupants to be displaced must be informed of their eligibility for relocation assistance and the nature of the assistance.
 - b. Occupants not to be displaced must be informed of the terms and conditions under which they may occupy the property upon completion of the project.
2. Different notices serve different purposes and must be tailored both to:
 - a. the specific project circumstances, and
 - b. the individual circumstances of the residents.
3. Combining notices is acceptable, IF the appropriate information is provided in a timely manner [1-8b(3)].

Failure to provide correct and timely notices can be one of the most expensive mistakes that a relocation specialist can make.

B. Required Notices - Handbook 1378, Paragraphs 2-3 and 1-8c(4)

1. There are several different types of notices indicated by the URA.
 - a. General Information Notice (GIN): Informs occupants of a possible project and of their rights under the URA. Stresses that the household should not move at this time. **See Appendix 2 in Handbook 1378.**
 - b. Move-in Notice: Informs households moving into potential projects after the application that they may be displaced and that they will not be entitled to assistance. **See Appendix 29 in Handbook 1378.**
 - c. Notice of Non-Displacement: Informs households who will remain in the project after completion of the assisted activity of their rights and of the terms and conditions of their remaining at the property. **See Appendix 4 in Handbook 1378.**

- d. Temporary Relocation Notice: Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move. **See sample notice in sample temporary relocation plan at the end of this chapter.**
- e. Notice of Eligibility: Informs households to be displaced of their rights and levels of assistance under the URA. **See Appendix 6 in Handbook 1378.**
- f. Ninety (90)-and Thirty (30)-Day Notices: Informs displaced households of the day by which they must vacate the property. Note that displaced households may not normally be given less than 90 days to vacate their residence.
- g. Waiver of Relocation Assistance Notice: If a tenant or occupant does not wish to receive any relocation benefits then they can sign this form and waive their relocation benefits. It is recommended that the tenant's signature be notarized by a third party. **See Appendix 18 in Handbook 1378.**

2. The chart below highlights the timing of these notices.

<u>Application</u>	<u>Agreement</u>	<u>Project Complete</u>
General Info. Notice	Notice of Non-displacement or Notice of Eligibility	30 Day Notice (opt.) Temporary Relocation Notice (opt.) 90 Day Notice (opt.)

C. Notices Must Include - Handbook 1378, Paragraphs 2-3 and 1-8c(4)

- 1. General Information Notice (GIN)
 - a. Different versions are required for those persons who will and will not be displaced.
 - b. The notice must be provided as soon as feasible. For residential rehabilitation projects, the notice should be given as soon as feasible after the owner's submission of an application [2-3a].
 - c. The notice must explain that the project has been proposed and caution the person not to move prematurely [2-3a(1); 2-3a(2)].

- d. The notice informs the person of the terms for continued occupancy if the resident will not be displaced or of the assistance available if the person will be displaced [2-3a(1); 2-3a(2)].
 - e. If displacement is possible, the notice should enclose additional information about available relocation assistance (e.g., HUD Booklet 1042-CPD, Relocation Assistance to Tenants Displaced From Their Homes).
- 2. Notice to Tenants Moving In After Application [1-8c(4)]
 - a. This notice may be issued to each prospective tenant BEFORE the tenant agrees to move into the project.
 - b. This notice explains that the project has been proposed and informs residents that they may be displaced or sustain a rent increase as a result AND that they will not be entitled to relocation assistance in either event.

Failure to issue this notice can be very costly. The contractor may incur an unnecessary relocation liability for each resident who moves in after the application who is not given this notice.

- 3. Notice of Non-displacement
 - a. For residential rehabilitation projects, this notice is issued to residents who will remain in the project.
 - b. This notice is issued at the time of the execution of the agreement for rehabilitation and contains a specific offer of a suitable, affordable unit in the project [2-3b(1)].
- 4. Temporary Relocation Notice
 - a. Residents who are not required to move permanently may be required to move temporarily IF all conditions of the move are "reasonable" [2-4b].
 - b. Those to be temporarily relocated must receive "reasonable" advance written notice of the location, terms and conditions of the temporary move and of their right to reimbursement of all reasonable out-of-pocket expenses [2-4b].

5. Notice of Eligibility for Relocation Assistance

- a. For residential rehabilitation projects, this notice is issued to residents who will be displaced [2-3b(2)].
- b. The notice is issued at the time of the execution of the agreement for rehabilitation and contains a commitment for relocation assistance including:
 - (1) addresses of comparable replacement units, and
 - (2) A specified amount for a replacement housing payment and moving expense.

Note: Because the comparable rents set an upper limit for assistance, failure to provide information about available, comparable units may result in a requirement to pay excessive relocation costs.

- c. For a family who can be offered a decent, safe and sanitary unit in the project but not an affordable one, the notice may offer the family the opportunity to waive relocation assistance and remain in the project.
- d. The notice should include the information contained in HUD Booklet 1042-CPD.

6. Ninety (90)-Day and Thirty (30)-Day Notices

- a. Each lawful occupant to be displaced must receive at least 90 days written advance notice before being required to move [2-3c(1)].
- b. The notice cannot be given before the person is issued a notice of eligibility for relocation assistance OR before being notified of the availability of a comparable replacement dwelling [2-3c(2)].
- c. The notice must specify the date by which the property must be vacated or, if the date is unknown, indicate the earliest date that the occupant may be required to move [2-3c(3)].
- d. If no date is specified in the 90-day notice, the occupants must be informed that they will receive at least 30 days advance written notice of the specific date of the move [2-3c(3)].

- e. Occupants may be required to move on less than 90 days notice if the contractor determines that the notice is impracticable (e.g., a health hazard) [2-3c(4)].

D. When and How Notices Are Served - Handbook 1378, Paragraphs 2-3 & 6-1

1. Notices may be issued by either the contractor or the owner. However, the contractor is ultimately responsible and must assure that timely and correct notices are given. HUD recommends that contractors issue the notices [6-1a].
2. Notices must be personally served or sent by certified or registered first-class mail, return receipt requested. [2-3d] (HOME and CDBG staff are now requiring that notices be signed and dated by tenants.) Use return envelopes to get them sent back signed or get them signed in person.
3. Notices should be issued as soon as feasible. Although Handbook 1378 defines the point of "initiation of negotiations" for HUD programs, the date of "application" is less clear. To avoid relocation problems, contractors should establish policies defining when an application is received.

E. Contractor Responsibility For Subcontractors - Handbook 1378, Paragraphs 1-29b and 6-1a

When program activities are carried out by subcontractors, the Contractor must assure that proper notices are given.

Of particular note is the requirement for a homebuyers program to give the seller a notice that the property will not be taken by eminent domain and for any rental occupant to receive the required notices described above.

F. Guide Forms

Guide forms for the various notices from Handbook 1378 are provided at the end of this chapter.

G. Information and Counseling-Handbook 1378, Paragraphs 2-4 and 2-5

All residents must be kept informed of project activities and scheduling. Information and counseling should also include the following:

- a. Referrals to other available assistance and human services (e.g., health services, public assistance, child care);

- b. Information about Federal, State and local housing programs and how to apply for them;
- c. Information about the household's rights under the Fair Housing Act; and
- d. For those who are displaced; information, to the extent possible, about replacement housing opportunities that may promote fair housing and moves to neighborhoods outside areas of racial concentration.

3. RELOCATION ASSISTANCE FOR RESIDENTS WHO ARE DISPLACED

A. Factors For Calculating Assistance

- 1. Everyone who meets the URA definition of a "displaced person" is eligible to receive relocation assistance.
- 2. The level and type of assistance received by different types of displaced persons may vary, based upon several factors including:
 - (a) Whether the person is a tenant or owner;
 - (b) Whether the person is a business or household;
 - (c) How long the person has lived in the project; and
 - (d) The person's income and rent.

In order to evaluate the impact of a displaced person's income on their relocation assistance, it is important to know the definition of "income" and to understand when HUD imposes certain income limits.

B. Definition of Income

- 1. Historically, Contractors have used their own definition of "income" (e.g., income as reported for tax purposes).
- 2. 24 CFR Part 5, Subpart F contains specific definitions of "Annual (Gross) Income" and "Adjusted Income" that are used for the Section 8 Program and many other HUD programs.
- 3. HOME contractors must also use the Section 8 definition to compute "income" for all households in HOME projects.

C. Income Limits

1. The following income limits are established and published annually by HUD and are located on the HCD web site;
 - a. HUD's Low Income Limit. The lower income limit generally represents 80 percent of the area median income for the market area covered.
 - b. HUD's Very Low-Income Limit. The very low-income limit generally represents 50 percent of the area median income for the market area covered.
2. The limits are published annually for each jurisdiction's area by number of members in the household. See website www.hcd.ca.gov and do a search for income limits.

For example:

Income Level	1 Member	2 Members	3 Members	4 Members	5 Members
Very Low	\$12,100	\$13,800	\$15,500	\$17,250	\$18,650
Low	\$19,300	\$22,100	\$24,850	\$27,600	\$29,800

3. These limits are updated and published annually in the spring so Contractors should always check to make sure that they are using the most recent version of the limits.
4. There is no income cut-off for eligibility for relocation assistance. Anyone who is displaced may be entitled to URA assistance.

However, certain households may be eligible for different types of assistance based upon their income level. For example, households who are below the very low-income limit may be able to receive a Section 8 Certificate or Voucher.

4. GENERAL ASSISTANCE REQUIREMENTS - Handbook 1378, Paragraphs 2-5, 3-2, 3-3, 3-4, and 3-5

- A. **Advisory Services.** Includes timely notices, information booklets, explanation of assistance, referrals to comparable housing, referrals to social services, counseling and advice on rights under the Fair Housing Act.

B. Replacement Housing Assistance. Replacement Housing Assistance is available to both renters and homeowners.

1. Assistance is provided in the form of either rental assistance or purchase assistance.
2. Rental Assistance may be in the form of a Replacement Housing Payment (discussed below) or, for eligible households, tenant-based rental assistance under Section 8 or HOME if it is available.
3. The household (not the Contractor) has the right to choose whether rental assistance is provided through a Housing Payment or through tenant-based assistance.

C. Moving and Related Expenses. The displaced person has the option of the following:

1. A payment for actual reasonable moving and related expenses; or
2. A moving expense and dislocation allowance based on a Department of Transportation (DOT) schedule that is published periodically.

5. REPLACEMENT HOUSING ASSISTANCE -- RENTERS - Handbook 1378, Paragraphs 3-4 and 3-5

A. General Policy: The amount of the Replacement Housing Payment a displaced tenant receives varies depending upon whether the family was in occupancy more or less than 90 days prior to the date of execution of the agreement (see the chart on the following page for the two formulas).

The Replacement Housing Payment is intended to provide affordable housing for a 42-month period. Although the URA regulations mention a \$5,250 limitation on payments, it also requires that persons receive the calculated payment. Therefore, families are entitled to the full 42 months of assistance even though the amount may exceed \$5,250 [3-4b(2)].

The payment to which the family is entitled is calculated using the lower of the cost of the family's actual new unit (including estimated utilities) or a comparable replacement dwelling [3-4b(1)].

Cash rental assistance must be provided in installments, unless the tenant wishes to purchase a home.

1. If the displaced tenant wishes to purchase a home, the payment must be provided in a lump sum so that the funds can be used for a down payment, including incidental expenses [3-4c].

2. All of the payment must be used for the home purchase [3-4c(5)].

Claim Form HUD-40058 (Appendix 14 of Handbook 1378) is used to compute the rental assistance or the down payment assistance.

B. Assistance For Tenants in Occupancy More Than 90 Days

1. Replacement Housing Payment makes up (for a 42-month period) the difference between the following:
 - a. The lesser of rent and estimated utility costs for the replacement dwelling or comparable unit; and
 - b. The lesser of:
 - (1) 30% of the tenant's average monthly gross income, or
 - (2) The monthly rent and estimated average utility costs of the displacement dwelling.

C. Assistance For Tenants in Occupancy Less Than Ninety (90) Days

1. Replacement Housing Payment makes up (for a 42-month period) the difference between the following:
 - a. The lesser of rent and estimated utility costs for the replacement dwelling or comparable unit; and
 - b. 30% of the tenant's average monthly gross income

**EXAMPLE: URA REPLACEMENT HOUSING PAYMENT –
TOTAL TENANT PAYMENT**

\$600 Rent and utilities at actual replacement dwelling
\$500 Rent and utilities at comparable replacement dwelling

Choose the lesser: \$500

\$400 Rent and utilities at the displacement dwelling
\$300 30% of gross monthly income

Choose the lesser: \$300

REPLACEMENT HOUSING PAYMENT IS:

$\$500 - \$300 = \$200 \times 42 \text{ months} = \$8,400$

D. Claim For Moving and Related Expenses - Handbook 1378, Paragraph 3-2

Displaced households may choose to receive payment for moving and related expenses either by reimbursement of actual expenses or receipt of a fixed payment based upon a schedule established by Department of Transportation (DOT).

1. Actual Expenses - Based upon the Contractor's determination that the expenses are reasonable and necessary, moving and related expense payments may include the following [3-2a]:
 - a. Transportation of the displaced person and personal property. (This may include reimbursement at the current mileage rate for personally owned vehicles that need to be moved.) Transportation costs for a distance beyond 50 miles are not eligible, unless the contractor determines that relocation beyond 50 miles is justified;
 - b. Packing, crating, uncrating and unpacking of the personal property;
 - c. Storage of the personal property for a period not to exceed 12 months, unless the contractor determines that a longer period is necessary;
 - d. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property;
 - e. Insurance for the replacement value of the property in connection with the move and necessary storage; and
 - f. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available.
2. Ineligible expenses include the following [3-2a(7)]:
 - a. Interest on a loan to cover moving expenses; or
 - b. Personal injury;

- c. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency;
- d. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or
- e. Costs for storage of personal property on real property owned or leased by the displaced person before the initiation of negotiations.

3. Fixed moving Expense and Dislocation Allowance

- a. A person displaced from a dwelling or a seasonal residence may, at his or her discretion, choose to receive a moving expense and dislocation allowance as an alternative to a payment for actual reasonable moving and related expenses [2-2b(1)].

This allowance is determined according to the applicable schedule of allowance published by the Federal Highway Administration [3-2b(1)].

The allowance reflects the number of rooms in the displacement dwelling (which may include outbuildings) and whether the displaced person owns and must move the furniture. If a room contains an unusually large amount of personal property (e.g., a crowded basement), the Agency may increase the payment accordingly (i.e., count it as two rooms).

- b. Occupant of Dwelling with Congregate Sleeping Space. The moving expense for a person displaced from a permanent residence with congregate sleeping space ordinarily utilized by three or more unrelated persons is \$50 [3-2b(2)].
- c. Homeless Persons. A displaced "homeless" person (e.g., the occupant of an emergency shelter) is not considered to have been displaced from a permanent residence and, therefore, is not entitled to a fixed moving expense and dislocation allowance. (Such a person may, however, be eligible for a payment for actual moving expenses.) [3-2b(3)].

4. Displaced Public Housing Tenants [3-2c]

Whenever a public housing tenant is offered the opportunity to relocate to a comparable replacement public housing unit, the Public Housing Authority may, at its discretion, select to perform the move (with its own staff or through private contractors) at no cost to the person. In such cases, the tenant is entitled to a moving expense and dislocation allowance of \$50.

If the Public Housing Authority does not elect to take full responsibility for the move, the tenant has the option to choose either payment for actual moving and related expenses or the applicable fixed moving expense and dislocation allowance. (NOTE: This policy covers displacement under the URA and not "general transfers.")

5. Optional Claim Form. A copy of form HUD-40054, "Claim for Moving and Related Expenses -- Families and Individuals," is contained in Appendix 11, Handbook 1378. The form is optional; however, if the form is not used, equivalent documentation must be included in the contractor's files.

E. Optional Relocation Assistance

Contractors may use CDBG funds or HOME funds (in a HOME project only) to provide relocation assistance beyond that required to persons covered by the regulations. If State or local law does not require the additional assistance, the contractor must adopt a written policy describing the optional relocation assistance and provide for equal relocation assistance within each class of displaced persons from that time forward.

EXAMPLE: Optional Relocation - The contractor is not required to pay temporary relocation benefits to owners for owner-occupied rehabilitation projects. The agency can elect to pay temporary relocation benefits to owners for owner rehabilitation projects if they adopt a written optional relocation policy and provide the benefits equally to all owners in the program.

6. RIGHTS OF RESIDENTS WHO REMAIN IN THE PROJECT

A. Rent Burden/Economic Displacement - Handbook 1378, Paragraph 1-8b(6)(b) 1 and Chapter 8

1. Tenants who are intended to remain in the project must receive the offer of a "suitable" unit, which can be rented at an "affordable" price [1-8b(6)(b) 1(ii)].

2. Tenants who move permanently after execution of the agreement because they did not receive such an offer are considered "economically displaced".

B. How Much Is Too Much - Handbook 1378, Paragraph 1-8b(6)(b)1(ii) and Chapter 8

If there is no increase in rent, the unit is considered affordable and the tenant is not considered "rent burdened" -- even if the percentage of income that the family is paying is quite high [1-8b(6)(b) 1(ii)].

For most programs, if the rent is increased as a result of Federal assistance, it may not exceed 30% of gross monthly household income. A family whose increase rent exceeds this threshold is "rent burdened." If the family moves permanently from the project as a result, it is considered "economically displaced" [1-8b(6)(b) 1(ii)].

"Rent" for this purpose means gross rent -- the rent paid to the owner plus an estimate for utilities paid by the tenant. [\$550 (Rent Paid to Owner) plus \$65 (Estimated cost of tenant-paid utilities) equals \$615 (Gross rent)]

C. How Long Must Units Remain Affordable - Handbook 1378, Paragraph 1- 8b(4) and Chapter 8

Regulations are not specific on this point. However, HUD expects Contractors to deal with the "intent" of the URA requirements. In general HUD envisions the following:

1. In-place tenants should be offered a new lease, presumably for one year, at the time of rehabilitation completion. Any increase in rent caused by the rehabilitation would be reflected at that time;
2. An owner and tenant could agree to continue an existing lease, but the contractor would have to determine on an individual basis whether the terms of this lease meet the test of avoiding rent increases to the family as a result of the rehabilitation; and
3. Any rent increases that occur subsequent to the initial rent increase are presumably based upon market conditions and not based upon rehabilitation costs. An owner may not keep rents artificially low at the time of rehabilitation completion and then subsequently raise the rents dramatically. This would provide a tenant who moved with a basis for a claim that he/she was a "displaced person."

D. To Avoid Economic Displacement - Handbook 1378, Paragraph 1-8b(4) and Chapter 8

To avoid economic displacement, eligible lower income tenants may be offered tenant-based assistance to make units affordable.

Tenant-based assistance includes Section 8 Rental Certificates or Rental Vouchers. HOME Tenant-Based Assistance may also be used if there is an expectation that assistance will be renewed after the initial two-year period.

Rent burdened families offered such assistance before they move may use the assistance in the project or move, but they are not considered displaced.

Tenant-based assistance can be provided only if the affected family is eligible under program rules. In general, to be eligible, the family's income must not exceed the Section 8 Lower Income Limit.

E. Not All Programs Use 30 Percent - Handbook 1378, Paragraph 1-Paragraph 7-20 and Chapter 8

Some HUD programs use different thresholds to determine rent burden. For example, the HOME program used the 30 percent of gross income threshold for tenants whose incomes are above the Section 8 Lower Income Limit and the Section 8 Total Tenant Payment (TTP) as the threshold for tenants at or below the Section 8 Lower Income Limit.

TTP is the greater of:

- 30% of adjusted income
- 10% of gross monthly income
- Welfare Rent (in as-paid states and communities only)

7. SECTION 104(d) REQUIREMENTS OVERVIEW

A. Background - 24 CFR 570.457, 570.496a(c), 570.606(c) and 570.702(f)

1. Section 104(d) requirements may be triggered whenever CDBG, HOME or UDAG funds are used for a project.
2. Section 104(d) requirements focus on the "loss" of low-income housing (both rental and owner-occupied) in the community through demolition or conversion.

3. It has two distinct components:
 - a. PEOPLE: 104(d) specifies relocation assistance for displaced low- income families. Section 104(d) does not provide protection or assistance for families with incomes above the Section 8 Lower Income Limit.
 - b. UNITS: 104(d) requires one-for-one replacement of low-moderate- income dwelling units that are demolished or converted to other use.
4. Key dates:
 - a. Section 104(d) of the Housing and Community Development Act of 1974, as amended, was enacted in 1988.
 - b. The interim rule was published August 17, 1988 and took effect with the first grant received in fiscal year 1989.
 - c. The final rule was published July 18, 1990 and became effective October 1, 1990 (see Handbook 1378 for specific implementation instruction).

B. "Use" of HOME, CDBG or UDAG Funds

"Use" of HOME, CDBG or UDAG in a project involves both direct financing and related expenses associated with a project.

1. Financing or investment of funds for rehabilitation or demolition is considered "use".

Example: HOME funds are used as a loan to rehabilitate a property.

Example: UDAG funds are used to guarantee a private loan for substantial repairs to a property.

2. When HOME, CDBG or UDAG funds are spent for administrative or project delivery costs (i.e. program staff or contracted salaries and related project expenses) this is considered "use".

Example: The City of Frankville employs a HOME funded rehabilitation specialist to prepare work write-ups and cost estimates for a 10-unit apartment building that will be converted to a hotel. Even though no HOME funds will be invested in the rehabilitation, 104(d) is triggered.

3. When CDBG funds are used solely for general program administration (as defined in 24 CFR 570.206) or to pay for relocation assistance, they are not considered "used" and therefore do not trigger 104(d).

C. Administrative Requirements - Handbook 1378, Paragraph 7-1

1. Antidisplacement Plan: Each Contractor must adopt and make public its Residential Antidisplacement and Relocation Assistance Plan to implement Section 104(d) requirements **or** certify that it will follow the State's adopted Antidisplacement Plan.
2. Certifications: Every Contractor must certify it is following a Plan before a CDBG grant is made.

8. SECTION 104(d) TENANT ASSISTANCE AND RELOCATION REQUIREMENTS

A. When 104(d) Tenant Assistance Rules Apply - Handbook 1378, Paragraphs 7-1 and 7-7

1. Whenever:
 - a. A unit occupied by a lower income person is demolished and eliminated with HOME/CDBG/UDAG funds, the displaced person is eligible for relocation assistance at 104(d) levels [7-1b].
 - b. A HOME/CDBG/UDAG-funded conversion displaces a lower income person, the displaced person is eligible for relocation assistance at 104(d) levels [7-1b].
 - c. A lower income person remains in a project converted with HOME/CDBG/UDAG funds, 104(d) economic displacement rules apply [7-7b(3)(a)].
2. Any displaced person who qualifies for 104(d) assistance is also covered by URA.
3. Non-low-income residents of a HOME/CDBG/UDAG-funded project who are displaced (physically or economically) **are not** eligible for Section 104(d) assistance, but **are** eligible for URA assistance.

B. Key Definitions

1. Section 8 Fair Market Rents (FMRs)

- a. FMRs are determined by HUD and are published annually in the Federal Register. They are published by bedroom size for individual market areas.
 - b. They are intended to represent a figure at or below which modest, decent, safe and sanitary housing (including the cost of utilities) can be rented on the private market (approximately the 40th percentile of standard housing occupied by people who have moved within the last two years).
- 2. Low/Mod Unit [7-9]
 - a. A unit has a market rent (including estimated tenant-paid utilities) that is equal to or below the Section 8 Fair Market Rent is a low/mod unit.
 - b. The determination of a low/mod unit is not based upon the income of the occupant.
 - (i) A unit that rents above the FMR that is occupied by a lower income tenant is NOT a low/mod unit.
 - (ii) A unit that rents below the FMR that is occupied by a wealthy person IS a low/mod unit.
 - c. Owner-occupied units are considered. Owner-occupied unit have a "market rent" based upon the rents for comparable units that are being rented.
- 3. Demolish means to tear a unit down and not replace it on the same site.
 - a. Any unit occupied by a lower income resident that is demolished with HOME/CDBG/UDAG funds triggers the requirement to provide relocation assistance to the occupant at Section 104(d) levels [Exhibit 7-1].
 - b. Whether or not a demolished unit must be replaced depends upon its condition and how long it has been vacant prior to demolition. (More details are provided in the one-for-one replacement section of this Chapter.)
- 4. Conversion includes the following [Exhibit 7-1]:
 - a. Changing the use of the unit (e.g., from permanent rental housing to a hotel or to a non-residential use); and

- b. Rehabilitating a low/mod unit with HOME, CDBG or UDAG assistance causing the post-rehabilitation rent to be above the FMR.

Conversion does not occur if the sole project activity is acquisition [Exhibit 7-1]. If HOME/CDBG/UDAG funds are used for any project activity (i.e., acquisition but not the subsequently planned rehabilitation), the project is considered to be funded with HOME/CDBG/UDAG funds [7-10a].

C. Section 104(d) and URA: Similarities

1. Both URA and 104(d) provide assistance for persons who have been displaced as a direct result of HUD-funded project. Specific similarities between the two sets of regulations include the following:
 - a. Minimizing displacement -- Both regulations stress that displacement should be minimized when possible.
 - b. Notices -- Both require that a general information notice, and a notice of non-displacement or a notice of eligibility for relocation benefits be provided.
 - c. Economic displacement -- Both regulations consider people who cannot afford to remain in the property after project completion to be economically displaced.
2. Relocation assistance procedures
 - a. Moving expenses are the same under the two sets of regulations.
 - b. Both require payments of rental assistance, although the amounts and available types vary across the two regulations.
 - c. Both permit offering Section 8 or HOME tenant-based assistance to eligible families who will remain in the project to avoid economic displacement. And, as with URA, "gap" payments may be required in some cases.
 - d. Section 104(d) and URA require that displaced tenants be offered comparable dwelling units that are decent, safe, and sanitary.
 - e. Advisory services are also required under both 104(d) and URA.

- f. Appeals are provided for under both sets of requirements.
- 3. Contractor responsibility and records -- Contractors are responsible for ensuring subcontractor compliance with both 104(d) and URA and for keeping adequate records.

D. Economic Displacement Under 104(d) - Handbook 1378, Paragraph 7-7b(3)

- 1. Lower Income Tenants
 - a. Lower Income tenants who are intended to remain in the project must receive the offer of a "suitable" unit which can be rented at an "affordable" price [7-7b(3)(a)].
 - b. Tenants who move permanently after execution of the agreement because they did not receive such an offer are "economically displaced".
 - c. If there is no increase in rent, the unit is considered affordable and the tenant is not considered rent burdened, even if the percentage of income that the tenant is paying is quite high [7-7b(3)(a)(ii)].
 - d. If the rent is increased it may not exceed the tenant's Total Tenant Payment as calculated for the Section 8 program [7-7b(3)(a)(ii)].
 - e. As under the URA the Contractor may offer Section 8 or HOME tenant-based assistance, if either is available, to prevent economic displacement.

2. Tenants With Incomes Above the Lower Income Limit

A family whose income is above the Section 8 Income Limit is not covered by 104(d). However, such a family who is economically displaced is covered by the URA [Chapter 8].

E. 104(d) Replacement Housing Payment - Handbook 1378, Paragraphs 7-7 and 7-16

Basic Requirements

- 1. The 104(d) Replacement Housing Payment is available only to Lower Income households [7-7a]. Displaced tenants with income above the Section 8 Lower Income limit are eligible to receive assistance under the URA.

2. The 104(d) Replacement Housing Payment is intended to provide affordable housing for a 60-month period [7-16e]. There is no cap on the 104(d) Replacement Housing Payment.
3. As with URA, the payment is calculated using the lower of the cost of the tenant's replacement dwelling (including utilities) or a comparable replacement dwelling.
4. The Replacement Housing Payment makes up the difference (for a 60- month period) between [7-16e(1)(a)]:
 - a. The rent and utility costs for the replacement dwelling (or comparable) and
 - b. The tenant's Total Tenant Payment, calculated as the greater of:
 - (i) 30% of adjusted income;
 - (ii) 10% of gross income; or
 - (iii) Welfare Rent (in as-paid states)

F. Tenant-Based Assistance - Handbook 1378, Paragraph 7-16

Basic Requirements

1. As with URA, tenant-based assistance in the form of Section 8 can substitute for the Replacement Housing Payment [7-16e(1)(b)].
2. Unlike URA, the Contractor, not the tenant, decides whether tenant-based assistance or a replacement housing payment will be made [7-16e(1)(c)].

However, if the family wants a cash payment and therefore rejects an offer of tenant-based assistance under 104(d), the family retains its right to a cash payment (42 months) under URA [7-16e(1)(c)].

3. Cash rental assistance must be provided in installments.
4. If the displaced person wishes to purchase a home, the payment must be provided in a lump sum for a down payment [7-16e(2)(a)]. However:
 - a. For 104(d), cooperatives and mutual housing are the only permitted forms of homeownership [7-16e(2)(a)]; and

- b. The capitalized value of the replacement housing payment is calculated using the passbook interest rate currently in effect for a Federally insured bank or savings and loan conducting business in the jurisdiction [7-16e(2)].

G. Other Costs - Handbook 1378, Paragraph 7-16

1. Moving and Related Expenses

Moving and related expenses are paid under Section 104(d) in the same way as for URA. Tenants may receive a reimbursement of reasonable, actual expenses or an allowance [7-16b].

2. Security Deposits

104(d) also provides for the cost of a reasonable and necessary security deposit required to lease the replacement dwelling unit. The displaced person is entitled to keep any refund due when the tenant moves from the replacement dwelling [7-16c].

9. ONE-FOR-ONE REPLACEMENT REQUIREMENTS - 24 CFR 570.496a(c)(1) and 24 CFR 570.606(c)(1)

A. Overview

1. Contractors may not use CDBG or HOME dollars to reduce the supply of "low/moderate dwelling units" [7-1a].
2. Section 104(d) requires that each applicable unit that is "lost" be replaced by another affordable unit.
3. This is a "brick and mortar" requirement. It is not related to the circumstances of the family who lives in the unit, nor whether the unit is currently owned or rented.

B. More Definitions - Handbook 1378, Paragraphs 7-9 and 7-12

1. Market Rent

Rent charged for an unsubsidized comparable unit. Generally, this is what a tenant pays. A reduced rent charged to a relative or on-site manager is not market rent. For owner-occupied units, the market rent is the rent the unit could command if it were rented.

2. Vacant Occupiable Dwelling Unit [7-12]

- a. A dwelling unit in standard condition (regardless of how long it has been vacant);

- b. A vacant unit in substandard condition that is suitable for rehabilitation (regardless of how long it has been vacant); or
- c. A dilapidated unit, not suitable for rehabilitation which has been occupied (except by squatters) within one year prior to the date of agreement.

C. Triggers For Replacement

- 1. Contractors MUST replace a unit if:
 - a. It meets the definition of low/moderate dwelling unit;
 - b. It is occupied or is a vacant occupiable dwelling unit; and
 - c. It is to be demolished or converted to a unit with market rents above the FMR or to a use that is no longer for permanent housing.
- 2. A unit DOES NOT need to be replaced if:
 - a. It does not meet all of the triggering criteria.
 - b. It has a substandard unit not suitable for rehabilitation (as defined by CHAS or HAP) that has been vacant for over a year.

Income of the current resident is not relevant when evaluating triggers for replacement.

D. Disclosure and Reporting Requirements

- 1. Before a contractor executes a contract for any activity that would create the need for one-for-one replacement, the contractor must:
 - a. Make the plan public, by publication in a newspaper of general circulation, and
 - b. Submit to HCD the following information:
 - (i) Description of the proposed activity;
 - (ii) Location and number of units to be removed;
 - (iii) Schedule for the beginning and completion of the demolition or conversion;

- (iv) Location and number of replacement units;
 - (v) Source of funding and timing or providing the replacement units;
 - (vi) The Contractor's basis for determining that the replacement units will remain affordable for at least 10 years from the initial date of occupancy; and
 - (vii) The Contractor's justification (if applicable) for replacing larger units with smaller units.
- c. There will be no formal HCD approval of the submission. HCD will use the information in its monitoring activities.

E. Replacement Units

1. Replacement units must:
 - a. Be within the Contractor's jurisdiction and, if possible and consistent with other statutory priorities, in the same neighborhood;
 - b. Be in standard condition; and
 - c. Be designed to remain affordable to low-income families for 10 years.
2. The number of bedrooms replaced must equal the number of bedrooms removed (but not necessarily in the same unit configurations).
3. Replacement units must be provided within a four-year time frame.
 - a. Units made available up to one year before the submission of the Contractor's plan for a one-for-one replacement may be counted as replacement units.
 - b. Units made available within three years of the beginning of the demolition or rehabilitation can be counted as replacement units.
4. Substandard units that are rehabilitated can count toward the replacement units if:
 - a. No person was displaced by the assisted activity;

- b. The unit was vacant for at least three months before the agreement authorizing the rehabilitation was executed; and
- c. The unit is in standard condition following rehabilitation.

F. Exceptions to One-For One Replacement Requirements

- 1. Contractors may request an exception to the one-for-one replacement requirements if adequate, vacant, affordable housing is available.
- 2. Exceptions are requested through the Field Office.
 - a. Simultaneously contractors must make the submission public and give interested persons 30 days from the date of submission to provide HUD with additional information supporting or opposing the request.
 - b. State recipients must submit the request to the State for determination and invite the public to make comments to the State. If the State supports the request, the State must provide its recommendation to HUD.
- 3. Exceptions must be sought BEFORE executing a contract for demolition or conversion of low/moderate income dwelling units begins. Exceptions cannot be granted after completion of demolition or conversion.
- 4. The HUD Field Office will make this determination based on the following:
 - a. The jurisdiction's vacancy rate and number of vacancies;
 - b. The length of waiting lists for assisted housing in the jurisdiction;
 - c. The needs analysis contained in the CHAS or HAP; and
 - d. Housing that may be available nearby, but outside, the jurisdiction.

ACQUISITION OF REAL PROPERTY

IV. INTRODUCTION

Grantees must understand the critical difference between acquisition of property when the sale is **voluntary** or **involuntary**. The difference between these two types of transactions is similar to the difference between temporary relocation and permanent displacement previously discussed, in that, both temporary relocation and voluntary sales are much more common in CDBG funded activities and much easier to manage. Both permanent displacement and involuntary sales are much more complex and create a great deal more work for grantees; as such they are often handled by professional consultants. Because voluntary sales are the norm for most programs and projects, this will be addressed first. If you have an involuntary sale then you should read the second part of this section and ascertain if you have the capacity to conduct this activity or if it would be best to hire a professional consultant to help go through the process to ensure proper compliance. While there are protections for sellers in both voluntary and involuntary sales, **only involuntary sales trigger the URA requirements for the formal acquisition process. The formal acquisition process using eminent domain requires the use of knowledgeable attorneys.**

Federal acquisition rules apply to sales with federal assistance whenever: 1) title to the property is purchased; 2) permanent easements- not temporary easements –are purchased; someone holds a life estate to the property; or someone holds a long-term lease to the property, which allows for an extension of fifty years or more. Acquisition rules must also be followed whenever: 1) grantees undertake the purchase of property directly; 2) grantees provide a non-profit or for profit entity with funds to purchase the property; 3) grantees hire an agent or consultant to act on their behalf; or 4) grantees provide federal assistance to individuals who are acquiring their own home.

All CDBG funded property acquisition or other activities which involve displacement or relocation (temporary or permanent) of low-income households or which involve the demolition or conversion of residential units occupied by low-income households must adhere to the requirements of two Federal laws--Section 104(d) of the Housing and Community Development Act of 1974, as amended, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended--and their implementing regulations. Section 104(d) regulations do not apply to acquisition if the project does not include conversion or demolition. The primary purpose of these laws is to ensure that when CDBG-funded projects result in the demolition or conversion of units occupied by targeted income group persons, all affected persons receive the proper relocation assistance and benefits.

State law often has an impact on federally-funded acquisition; therefore, grantees must be familiar with these requirements as well as the URA rules. When federal, state, or local laws are not consistent with each other, grantees must comply with whichever is the most restrictive. State CDBG staff will only monitor for compliance with federal regulations.

The Acquisition section covers the following topics:

- A. Acquisition process for Voluntary Sales
- B. Acquisition process for Involuntary Sales
- C. Records
- D. Developing a Project Relocation Plan
- E. Definitions

A. Acquisition process for Voluntary Sales.

When a **voluntary sale** occurs, there can be **no threat of eminent domain or condemnation**. The sales price may be negotiated, but the seller must be informed of certain facts about the acquisition. The URA recognizes three general types of purchases which can potentially be voluntarily. First, purchases where the grantee has the power of eminent domain but agrees in writing not to use this power. For example, if the offer is not accepted then the grantee must look for another property. Second, purchases where the grantee does not have the power of eminent domain. For example, if an offer is made by a non-profit agency or a private individual who does not have the power of eminent domain. Third, purchases of government property (state, federal, local) where the grantee does not have the power of eminent domain. For example, if a non-profit offers to purchase a piece of property from the local redevelopment agency and they are using state CDBG funds.

Below is a more detailed description of the three types of voluntary acquisition processes where URA procedures would not be invoked.

1. A Voluntary Acquisition by Grantees with the Power of Eminent Domain:
To be considered a **voluntary acquisition** by a buyer with the power of eminent domain, the property may not be part of a planned or designated project area where substantially **all the property in the area** will be purchased within a specified time frame.
 - a. If a grantee requires a specific site for a program or activity it is planning to undertake, the sale cannot be considered “voluntary”. It is assumed that, if negotiations fail, the grantee could ultimately acquire the property through condemnation. Thus, the acquisition is not “voluntary”.
 - b. The search for alternative sites for the project or activity may be limited to one geographic area, but if none of the owners are willing to sell voluntarily, the grantee must be prepared to look in another area for a site.
 - c. If someone else, such as a private developer or realtor, is authorized to act on the grantee’s behalf in negotiating the purchase, and the grantee is prepared to intervene and use condemnation if the negotiations are unsuccessful, the acquisition is not considered “voluntary”.

- d. In order to be voluntary, the grantee must send a letter to the owner of the property indicating: 1) that the grantee will not use its power of eminent domain; and 2) the fair market value of the property (**see next section for discussion of how to determine “fair market value”**).

2. Voluntary acquisition by grantees without Power of Eminent Domain: The buyer who could be a private citizen, developer, or an organization, must inform the seller of the follow three things in writing: 1) the buyer does not have the power of eminent domain; 2) an estimate of the fair market value of the property; 3) seller is not eligible for relocation benefits under URA. However, the offer to purchase may be less than the market value and the sale price and terms can be freely negotiated. First the grantee must provide the seller with the proper acquisition disclosure in regard to eminent domain. When are such notices given and are there samples:

- a. The purchaser should give the seller this written information before making an offer. If for any reason, the seller is not informed of these facts, and the sale is not closed, the seller should be immediately informed and allowed to withdraw from the purchase agreement without penalty.
- b. These notice requirements may appear to only protect the seller in a voluntary transaction; however, they also protect grantees from after-the-fact claims by the sellers who may have ulterior motives.
- c. The Guide form Notice, Exhibit 5-1 of the HUD Handbook 1378, should be used. **This notice is attached to this chapter as an appendix.**

Grantee are responsible for making certain that individual being provided purchase assistance under home buyer assistance programs are providing seller with this notice. Other organizations such as Community Housing Development Organizations (CHDOs) or local program operators, which are operating home buyer assistance programs funded with CDBG monies, must also comply with this requirement. Second the seller must be informed of the property's fair market value. How is the fair market value determined?

- a. A formal appraisal is **NOT** required by URA in voluntary sales. However, some HUD programs may require an appraisal, and in other cases, the purchase may involve a private lender who requires one.
- b. If an appraisal is not required, someone with the knowledge of the local real estate market can make this determination.
- c. The grantee must include in the written notice to the seller in their project files (along with evidence that the seller received it) and document how the fair market value was determined.

Voluntary Acquisition of Government Property: Acquisition is considered voluntary when the property is owned by a governmental agency and the buyer does not have the power of eminent domain. Similar to the first example of voluntary sale, the buyer- who could be a private citizen, developer, or an organization, must inform the seller of the follow three

things in writing: 1) the buyer does not have the power of eminent domain; 2) an estimate of the fair market value of the property; 3) the agency would not be eligible for URA relocation benefits. The purchaser should give the agency this written information before making an offer. If for any reason, the selling agency is not informed of these facts then they have the ability to cancel the agreement with no penalty.

3. Donations of Property: A property owner may donate their property and these transactions are also considered voluntary. The owner must be full informed of his or her rights under the URA. This includes the right to be paid fair market value of the property. The owner must acknowledge his or her decision to voluntarily relinquish payments due under URA in writing and the grantee must keep this acknowledgement in the project file.

B. Acquisition process for Involuntary Sales.

A chart of the typical acquisition process is included in Section VI. The following describes the basic steps.

1. Applicability of Acquisition Requirement (49 CFR 24.101). The requirements of this chapter apply to any acquisition of real property for a project, except:
 - a. An acquisition by a State agency (i.e., an entity with the power of eminent domain) that is clearly a voluntary, arm's length transaction. Such transactions must meet each of the following conditions:
 - i. The State agency determines and informs the owner in writing that it will not use its power of eminent domain to acquire the property if negotiations fail to result in an amicable agreement; and
 - ii. No specific site or property is designated for acquisition, although the State agency may limit its search for alternative sites to a general geographic area. Where a State agency wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly. The property to be acquired shall not be part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits; and
 - iii. The State Agency informs the owner of its estimate of the fair market value of the property. The notice must be in writing and provided before the seller enters into the contract for sale on which the purchase is based. An appraisal is not required; however, the estimate must be prepared by a person familiar with real estate values and the State agency's files must include an explanation of the basis for the estimate.

- b. An acquisition by an Agency (e.g., a person) that does not have authority to acquire the property by eminent domain, if, before the seller enters into the contract of sale, the Agency (person) informs the seller:
 - i. That it does not have the power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
 - ii. Of its estimate of the fair market value of the property. An appraisal is not required; however, your (the grantee's) files must include an explanation, with reasonable evidence, of the basis for the estimate.

Whenever feasible, this information shall be provided before making the purchase offer. In those cases where there is an existing option or contract, the seller must be provided the opportunity to withdraw from the agreement after this information is provided.

- c. An acquisition of real property from a Federal agency, State, or State agency, if the Agency making the purchase does not have authority to acquire the property through condemnation.

- 2. Property identification. The first step, which should be done as early as possible, is to identify which projects funded with CDBG funds involve the acquisition of real property through any means (e.g., donation, purchase, code enforcement) and selection of specific parcels (or easements) to be acquired. In deciding the particular properties to be acquired, you may contact property owners or real estate agents for information, but may not involve appraisers during this step or indicate its intent to purchase the property.

You must establish a file for each property to be acquired, and include copies of all notices, along with other acquisition documents. A checklist for real property acquisition is included in Section VI and in Chapter 7.

- 3. Notification. As soon as possible after the decision to acquire has been made and prior to negotiation, you must issue a Notice of Decision to Appraise (see Section VI for a sample of this notice). The notice should include:
 - A description of the boundaries of the specific area being considered for a particular public use.
 - A statement that the owner's property has been determined to be located within the area.

- A statement that the owner's property may be acquired in connection with the public use.
- A general description of the property.

At the time you notify the owner of your decision to appraise, furnish the owner with a Notice of Land Acquisition Procedures. This notice shall include:

- A description of the basic objective of the public entity's land acquisition program and a statement explaining relocation benefits for which an owner-occupant may be eligible.
- A statement that if the acquisition of a part of the property leaves an unmarketable remnant, you will offer to acquire the remnant if the owner desires.
- A statement that should the owner not be satisfied with your offer of just compensation, the owner will be given an opportunity to present relevant material, and, if a voluntary agreement cannot be reached, you will either begin formal condemnation proceedings against the property or abandon your effort to acquire the property.
- A statement that construction or development shall be scheduled so that no person will be required to move before receiving a 90-day written notice.
- A statement that if you permit an owner or tenant to occupy the property to be acquired on a short-term basis, the amount of rent required shall not exceed the lesser of the fair market rent of a short-term occupier or the pro rata portion of the fair rental value for a normal rental period.
- A statement that the rent for the dwelling shall be within the financial means of the occupant.

This notice and all other such notices are to be sent by certified or registered mail, return receipt requested, or hand delivered and receipt documented. If the recipient does not read or understand English, the grantee must provide translation and assistance. Each notice should indicate the name and telephone number of a person who may be contacted for further information.

4. Appraisal. The next step involves obtaining an unbiased and independent appraisal of the value of the property, reviewing the appraisal, and determining just compensation.

You are to select a reputable independent appraiser who has no interest in the property to be acquired. You should request statements of qualifications and an estimation of cost from a number of appraisers, review those qualifications and costs to determine which appraiser to hire. A minimum of one appraisal is required; however, if the project is potentially controversial (as with an unwilling seller) or where property values are high, it is recommended that two independent appraisals be conducted.

You must execute a professional services contract with the appraiser. The contract must require the appraiser to invite the property owner to accompany the appraiser during the property inspection (see Section VI for a sample invitation letter). This notice should be in writing and a copy placed in the property acquisition file.

Once the appraiser has prepared and submitted the appraisal to you, you should then review it. The review must be performed by a qualified reviewing appraiser, be in writing, and should focus on determining the adequacy of the initial appraiser's supporting data and the soundness of the initial appraiser's opinion of fair market value.

5. Preparing an Offer. When you have determined to acquire the property, establish an amount of just compensation. You shall then offer to acquire the property for the amount established from the review of the appraisal and must provide the owner with a written Statement of Basis for Determining the Just Compensation (see Section VI for a sample statement). The statement is to be placed in your project acquisition file and must include:

- A legal description of the property.
- A general statement of the public use for which the property is to be acquired.
- Interest to be acquired.
- Any inventory which identifies the buildings, structures, fixtures, and other improvements.
- The amount of the offer and statements to the effect that this is the full amount believed by you to be just compensation for the property; it is not less than the fair market value of the property; it disregards any increase or decrease in the fair market value attributable to the project for which the property was acquired with the exception of physical deterioration within the control of the owner; and it does not include any consideration or allowance for relocation costs.

- If only a portion of the parcel is to be acquired, a statement apportioning the just compensation between the actual piece to be acquired and an amount representing damages and benefits to the remaining portion.

The statement should also include:

- The applicable zoning.
- The highest and best use of the property determined by the appraisal.
- A definition of fair market value.
- A brief explanation of the principal appraisal techniques used in appraising the property.
- Copies of contracts to sell and purchase, and leases supporting the determination of value which should include the names and business or residence addresses of the parties to the transaction, the price and significant terms of the transaction.

If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or a significant delay has occurred since the time of the appraisal, you shall have the appraisal updated or obtain a new appraisal. You shall promptly reestablish just compensation if the new appraisal or update warrants one.

6. **Making an Offer.** The next step involves making a written offer to the owner to purchase the property and negotiating the final sale, which begins the displacement process. As soon as feasible after establishing just compensation, the grantee issues the owner a Written Offer to Purchase (see Section VI for a sample offer), along with the written Statement of the Basis for Determining the Just Compensation. As with all notices, its receipt must be documented. If the property is tenant or owner-occupied, the jurisdiction must issue a written Notice of Intent to Displace usually within 30 days of the date specified for the initiation of negotiations.

The next step involves the preparation and execution of the contract of sale, transfer of documents, and reimbursement of owner's incidental expenses. If the sale cannot be negotiated, initiation of condemnation proceedings should begin or you may decide not to acquire the property.

If negotiations are successful, a contract of sale should be prepared and executed, and transfer of documents secured. You must reimburse the owner to the extent it deems "fair and reasonable" for incidental costs associated with transfer of title (i.e., recording fees, transfer taxes, penalty costs or other charges for prepayment of any pre-existing recorded mortgages).

At the conclusion of settlement, you should provide the owner with a Statement of Settlement Costs which identifies all settlement costs regardless of whether they are paid at, before, or after closing, and must clearly separate charges paid by the owner. If a title or escrow company is used, the standard settlement statement form is acceptable. The Statement of Settlement Costs should be dated and certified as true and correct by the person handling the transaction. You should obtain a receipt for the purchase price and place it in the acquisition file.

If you cannot negotiate the sale, condemnation proceedings may be instituted. If you decide not to acquire the property after you have forwarded a Notice of Decision to Appraise or made a firm offer to acquire, you shall notify the owner and tenants, in writing by registered mail, return receipt requested, of your intention not to acquire the property (see Section VI for a sample notice), and that any person moving from the property thereafter will not be eligible for relocation payments and assistance. This notice should be sent within 10 days following your decision not to acquire the property.

NOTE: Condemnation can be substantially more expensive than negotiations. You are required to pay the amount established by the court. It is advisable to avoid condemnation and secure a successful acquisition by negotiation when at all possible.

C. Records.

You must maintain readily available records in sufficient detail to demonstrate compliance with the section 104(d) and URA acquisition and relocation regulations. These records shall be retained for at least: three years after, (a) the date the person has received all of the assistance to which the person was entitled, or (b) the date the project is completed; or four years from the date the final expenditure report is submitted by the grantee to the Department under the standard agreement. The record shall include the copies of all documentation given to you and the notices and checklists (see Section VI for some samples). Maintain a separate case file on each displaced person for four years from: the date the final expenditure report is submitted by the Grantee to the Department under the standard agreement; or after the date of final relocation payment, whichever is later.

You must complete a Comprehensive Project List (see Section VI) for each project which results in the temporary or permanent relocation of residential tenants or of owner-occupants (if the participating jurisdiction has opted to provide relocation benefits to owner-occupants). The Comprehensive Project List details the occupants at the initiation of the project and at the completion of the project. This list will be reviewed during the Department's contract monitoring.

D. Developing a Project Relocation Plan

If your project's acquisition activity triggers relocation, the grant contract will include a condition that you develop relocation/displacement procedures which comply with all State and Federal regulations. You must maintain readily available records in sufficient detail to demonstrate compliance with the URA and Section 104(d) regulations.

Costs may not be incurred nor may project activity funds be drawn down until you adopt, make public and certify to the Department that you are following a "Relocation Assistance Plan" which contains two major components:

1. A requirement to replace all occupied and vacant occupiable TIG dwelling units that are demolished or converted to a use other than TIG housing in connection with an activity assisted under the HCD Act; and
2. A requirement to provide certain relocation assistance to any TIG person displaced as a direct result of (a) the demolition of any dwelling unit or (b) the conversion of a TIG dwelling unit to a use other than a TIG dwelling in connection with an assisted activity.

The Plan must consider the ultimate effect of a proposed project, who may be displaced, and what conversion or demolition might be a result of the Grant. That is, if any CDBG funds are used to pay any part of the cost of rehabilitation work, the total project is subject to the regulations referenced above. The Plan should focus on the determination of the impacts of a project on the TIG dwelling units and the displacement of people.

You do not have to implement the plan unless CDBG funds are to be obligated or expended for any portion of demolition or conversion of TIG dwelling units. You are advised to contact your CDBG representative if you anticipate implementing the Plan.

You may choose to begin completing the Plan as soon as you are notified of a grant award, but no charges may be made to the grant prior to the contract effective date. HUD has no sample project specific relocation plans but the State has sample project specific relocation plans for redevelopment agency projects which may be helpful and are available on the HCD web site. In most cases, project specific relocation plans are developed by professional relocation consultants.

E. Definitions.

Agency: The term "Agency" means the entity that causes a person to become a displaced person or that acquires real property. Such entity may be a State agency, local government, or a person (includes nonprofit organization, partnership, corporation or association).

Agreement: For private-owner projects, the term "Agreement" means the agreement between the grantee and the property owner (or person controlling the property). For publicly-owned projects (i.e., the Grantee is a State agency, as defined below), the Agreement is the contract between the Agency and the rehabilitation or demolition contractor.

Assisted Activity: An activity which uses CDBG funds in part or in whole.

Comparable Replacement Dwelling Unit: The term "comparable replacement dwelling" means a dwelling which is:

1. Decent, safe and sanitary.
2. Functionally equivalent to the displacement dwelling. The term "functionally equivalent" means that it performs the same function, provides the same utility, and is capable of contributing to a comparable style of living. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard reflecting the range of purposes for which the various physical features of a dwelling may be used. However, when determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, you may consider reasonable trade-offs for specific features when the replacement unit is "equal to or better than" the displacement dwelling.

Conversion: When a dwelling occupied by a TIG household is rehabilitated or its use is changed to something other than a TIG-occupied dwelling.

Displaced Person-Section 104(d) Definition (See also URA definition). The term "displaced person" means any TIG family or individual that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of the conversion of an occupied or vacant, occupiable TIG dwelling unit or the demolition of any dwelling unit in connection with an assisted activity. NOTE: A tenant-occupant who moves permanently as the result of the grantee's failure to provide timely notice of either future temporary relocation or of the absence of need to relocate may be determined to be a displaced person eligible for full displacement benefits.

Displaced Person Basic URA Definition (49 CFR 24.2 [g], see also 104[d] definition). The term "displaced person" means any person that moves from the real property, or moves his or her personal property from the real property, permanently, as a direct result of:

1. The acquisition of, or written notice of intent to acquire, or initiation of negotiations to acquire, such real property, in whole or in part, for a project; or
2. The rehabilitation or demolition of such real property for a project; or

3. The acquisition, rehabilitation or demolition of (or written notice of intent to acquire, or initiation of negotiations for), in whole or in part, other real property on which the person conducts a for-profit business or farm operation, or a non-profit organization for a project. Eligibility for a person under this Paragraph (3) applies for purposes of obtaining relocation assistance advisory services for persons to be displaced from a dwelling and financial benefits payment for their moving and related expenses. (Contact your CDBG representative with any questions regarding relocation payments for businesses, non-profit organizations, and firms.) Handbook 1378 Chapter 4.

Initiation of Negotiations. Whenever displacement occurs as a direct result of State agency rehabilitation and there is no related State agency acquisition, the "initiation of negotiations" is the execution of the agreement between the State agency and the person owning or controlling the property.

Permanent Relocation: Permanent relocation occurs when a person becomes displaced, i.e. the date of the actual move.

Project: The term "project" means an activity or series of activities that are integrally related, each essential to the others, whether or not all the component activities receive Federal financial assistance.

State Agency (49 CFR 24.2[a][4]): The term "State agency" means any department, grantee or instrumentality of a State or of a political subdivision of a State, any department, grantee, or instrumentality of two or more political subdivisions of a State or States, and any person that has the authority to acquire property by eminent domain under State law.

Targeted Income Group (TIG) Dwelling Unit: The term "targeted income group dwelling unit" means a dwelling unit with a market rent (including utility costs) that does not exceed the applicable Fair Market Rent (FMR) for existing housing established under 24 CFR Part 888, except that the term does not include a unit that is owned and occupied by the same person before and after the assisted rehabilitation.

Temporary Relocation: Temporary relocation occurs when rehabilitation work is sufficiently disruptive that tenants or homeowners must vacate the premises for a short period of time.

Vacant occupiable dwelling unit: The term "vacant occupiable dwelling unit" means a vacant dwelling unit that is in a standard condition; or a vacant dwelling unit that is in a substandard condition, but is suitable for rehabilitation; or a dwelling unit in any condition that has been occupied (except by a squatter) at any time within the period beginning one year before the date of execution of the agreement by the state recipient covering the rehabilitation or demolition.

V. COMMON PROBLEMS.

- Failure to identify when relocation will be triggered by a proposed CDBG funded activity and failure to plan for the time and costs needed to comply with federal relocation laws.
- Failure to document proper General Information Notice (GIN) was given to tenants and that the second notice of non-displacement was given and proper benefits were provided for temporary relocation.
- Failure to provide owner occupants with disclosure to relocation benefits and document benefits given.
- Acquisition of property without following acquisition policies.
- Failure to invite the property owner to accompany the appraiser during the property inspection.
- Failure to furnish the owner with a notice of land acquisition procedures.
- If you decide not to acquire the property, failure to notify the owner and tenants within 10 days of your decision not to acquire.
- Failure to send notices with a return receipt requested or to secure documentation of receipt if hand delivered
- Failure to prepare a Comprehensive Project List
- Failure to provide assistance in locating suitable replacement housing
- Failure to document claims
- Failure to time the 90-day notice correctly

VI. DEPARTMENT'S ROLE.

The Department's CDBG staff is a resource which should be contacted as soon as you determine that acquisition and/or relocation will be a component of your CDBG-funded activity. We can help you obtain HUD information resources and provide some guidance on meeting the relocation requirements.

VII. REFERENCES.

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Uniform Relocation Act Amendments of 1987 (URA) contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program for which HUD financial assistance

(including CDBG) is provided. The implementing regulations in 49 CFR Part 24 includes steps which must be taken with tenant-occupants including those who will not be relocated even temporarily.

- Section 104(d) of the Housing and Community Development Act of 1974, as amended, provides that, as a condition for receiving assistance under CDBG, the grantee must certify that it is following a residential antidisplacement plan and relocation assistance plan. Section 104(d) further requires relocation benefits to be provided low-income persons who are displaced as the result of a CDBG-assisted project and establishes requirements for the replacement of low-income occupied housing which is demolished or converted. The implementing regulations for Section 104(d) can be found in 24 CFR Part 570(a).
- Federal CDBG Regulations, Relocation, Displacement and Acquisition: Final Rule (section 104(d)), 24 CFR 570, dated July 18, 1990
- Federal Uniform and Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs; Final Rule and Notice(URA), 49 CFR Part 24, dated March 2, 1989 (URA)
- Final rule implementing Section 104(d) relocation and one-for-one replacement of housing requirement CPD Notice 90-40
- HUD Handbook 1378, Tenant Assistance Relocation and Real Property Acquisition consolidates the basic statutory and regulatory requirements of the URA and Section 104(d) and related implementing regulations. It is a comprehensive and valuable reference for all jurisdictions participating in the State CDBG program.

VIII. SUPPORTING MATERIALS-RELOCATION

- Sample Housing Rehabilitation Program Relocation Plan
- HUD Memo on Process for Relocation of Business/Non-profit/Farm

SUPPORTING MATERIALS-ACQUISITION

- Voluntary Sale Notice to Seller (Sample)

SAMPLE
CITY/COUNTY OF _____
HOUSING REHABILITATION PROGRAM RESIDENTIAL ANTI-DISPLACEMENT AND
TEMPORARY RELOCATION PLAN

The Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990, require all grantees of Community Development Block Grant (CDBG) funds or Home Investment Partnership (HOME) funds to follow a written Residential Anti-displacement and Relocation Assistance Plan (Plan) for any activities which could lead to displacement of occupants whose property is receiving funds from these or other federal funding source. Having been developed in response to both aforesaid federal legislations, this Plan is intended to inform the public of the compliance of the **City/County** of _____ (**City/County**) with the requirements of federal regulations 24 CFR 570.606 under state recipient requirements and Section 104(d) of the Housing and Community Development Act of 1974 and 24 CFR 92 of the HOME federal regulations. The Plan will outline reasonable steps, which the **City/County** will take to minimize displacement and ensure compliance with all applicable federal and state relocation requirements. The **City/County**'s governing body has adopted this plan via a formal resolution.

This Plan will affect rehabilitation activities funded by the U.S. Department of Housing and Urban Development (HUD) under the following program titles: HOME, CDBG, Urban Development Action Grant (UDAG), Special Purpose Grants, Section 108 Loan Guarantee Program, and such other grants as HUD may designate as applicable, which take place with in the **City/County** limits.

The **City/County** of _____ will provide permanent relocation benefits to all eligible "displaced" households either owner occupied or rental occupied units which are permanently displaced by the housing rehabilitation program (**See Section E below.**). In addition, the **City/County** will replace all eligible occupied and vacant occupiable low income group dwelling units demolished or converted to a use other than low income group housing as a direct result of rehabilitation activities. This applies to all units assisted with funds provided under the Housing and Community Development Act of 1974, as amended, and as described in the Federal Regulations 24 CFR 570.496(a), Relocation, Displacement and Acquisition: Final Rule dated July 18, 1990 (Section 104(d)) and 49 CFR Part 24, Uniform Relocation Assistance (URA) and Real Property Acquisition Regulations Final Rule and Notice (URA) dated March 2, 1989.

All **City/County** programs/projects will be implemented in ways consistent with the **City/County**'s commitment to Fair Housing. Participants will not be discriminated against on the basis of race, color, religion, age, ancestry, national origin, sex, familial status, or handicap. The **City/County** will provide equal relocation assistance available 1) to each targeted income group household displaced by the demolition or rehabilitation of housing or by the conversion of a targeted income group dwelling to another use as a direct result of assisted activities; and 2) to each separate class of targeted income group persons temporarily relocated as a direct result of

activities funded by HUD programs.

A. Minimizing Permanent Displacement and Temporary Relocation Resulting from Housing Rehabilitation or Reconstruction Activities

Consistent with the goals and objectives of activities assisted under the Act, the **City/County** will take the following steps to minimize the displacement of persons from their homes during housing rehabilitation or reconstruction funded by HUD programs:

1. Provide proper notices with counseling and referral services to all tenants so that they understand their relocation rights and receive the proper benefits. When necessary assist permanently displaced persons to find alternate housing in the neighborhood.
2. Stage rehabilitation of assisted households to allow owner occupants and/or tenants to remain during minor rehabilitation.
3. Encourage owner investors to temporarily relocate tenants to other available safe and sanitary vacant units on the project site area during the course of rehabilitation or pay expenses on behalf of replaced tenants.
4. Work with area landlords, real estate brokers, and/or hotel/motel managements to locate vacancies for households facing temporary relocation.
5. When necessary, use public funds, such as CDBG funds, to pay moving costs and provide relocation/displacement payments to households permanently displaced by assisted activities.

B. Lead Based Paint Mitigation Which Causes Temporary Relocation:

On September 15, 2000, the Final Rule for Lead Based Paint Hazard Control went into effect. Among other things, it requires that federally-funded rehabilitation must use safe work practices so that occupants and workers can be protected from lead hazards. **At no time should the tenant-occupant(s) be present in work areas or designated adjacent areas while LHC activities are taking place in any dwelling unit interior, common area, or exterior.** As such, occupants may not be allowed to remain in their units during the time that lead-based paint hazards are being created or treated. Once work that causes lead hazards has been completed, and the unit passes clearance, the occupants can return. **The tenant-occupants may not reoccupy a work area or adjacent area until post-lead hazard reduction clearance standards have been achieved and verified with laboratory results.** The final rule allows for certain exceptions: programs:

1. The work will not disturb lead-based paint, or create dust-lead or soil-lead hazard; or
2. The work is on exterior only and openings are sealed to prevent dust from entering the

CDBGMM.7/05

home, the work area is cleaned after the work is completed, and the residents have alternative lead free entry; or

3. The interior work will be completed in one period of less than 8-daytime hours and the work site is contained to prevent the release of dust into other areas of the home; or
4. The interior work will be completed within five (5) calendar days, the work site is contained to prevent the release of dust, the worksite and areas within 10 feet of the worksite are cleaned at the end of each day to remove any visible dust and debris, and the residents have safe access to kitchen and bath and bedrooms.

If temporary relocation benefits are not provided because the **City/County** believes that the project meets one of the above criteria, then proper documentation must be provided in the rehabilitation project file to show compliance. It is up to the **City/County** to ensure that the owner occupant or tenant in the project does not get impacted by lead paint mitigation efforts. In most cases where lead paint mitigation is taking place, occupants (tenants or owners) will be strongly encouraged to relocate even for just a few days until a final lead clearance can be issued by a certified lead based paint assessor. Occupants who are temporarily relocated because of lead based paint mitigation are entitled to the same relocation benefits as those who are relocated because of substantial rehabilitation or reconstruction activities.

C. Temporary Relocation of Owner Occupants:

Owner occupants are not allowed to stay in units which are hazardous environments during lead based paint mitigation. When their home is having lead based paint mitigation work done which will not make it safe to live in, then they are eligible for temporary relocation benefits up to \$500, which will be provided as a grant. In the same way, a unit requiring substantial rehabilitation (with or without lead based paint mitigation) which will not allow the family to access a bath or kitchen facility, or if the unit is being demolished and reconstructed, then the family will be eligible for temporary relocation benefits up to \$500, which will be provided as a grant. In no case shall the grant for temporary relocation exceed \$500 for any one owner occupant.

Owner occupants will be encouraged to move in with family or friends during the course of rehabilitation, since they are voluntarily participating in the program. The housing rehabilitation loan specialist and/or the rehabilitation construction specialist will complete a temporary relocation benefits form (**See Appendix C**) to document that the owner occupant understands that they must relocate during the course of construction and what benefits they wish to be reimbursed for as part of their relocation.

D. Temporary Relocation of Residential Tenants:

If continued occupancy during rehabilitation is judged to constitute a substantial danger to health and safety of the tenant or the public, or is otherwise undesirable because of the nature

of the project, the tenant may be required to relocate temporarily. The program administrator or construction supervisor will make determination of the need for temporary relocation. The temporary relocation period will not exceed 180 days. All conditions of temporary relocation will be reasonable. Any tenant required to relocate temporarily will be helped to find another place to live which is safe, sanitary and of comparable value and they have the first right to move back into the original unit being rehabilitated at the same rent or lower. He or she may move in with family and friends and still receive full or partial temporary assistance based on eligible cost incurred. The housing rehabilitation loan specialist and/or the rehabilitation construction specialist will ensure that each tenant occupied unit under the program will receive a General Information Notice (GIN) (as soon as possible after a loan application is received) and the tenant will receive a Notice of Non-displacement (after loan approval), and each tenant occupied unit will have a temporary relocation benefits form completed for them. **(See Appendix C).** These notices will document that each tenant understands what their relocation rights are, and if they must relocate during the course of construction, that they receive the proper counseling and temporary relocation benefits.

A tenant receiving temporary relocation shall receive the following:

1. Increased housing costs (e.g. rent increase, security deposits) and
2. Payment for moving and related expenses, as follows:
 - a. Transportation of the displaced persons and personal property within 50 miles, unless the grantee determines that farther relocation is justified;
 - b. Packing, crating, unpacking, and uncrating of personal property;
 - c. Storage of personal property, not to exceed 12 months, unless the grantee determines that a longer period is necessary;
 - d. Disconnection, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property;
 - e. Insurance for the replacement value of personal property in connection with the move and necessary storage;
 - f. The replacement value of property lost, stolen or damaged in the process of moving (not through the fault of the displaced person, his or her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available;
 - g. Reasonable and necessary costs of security deposits required to rent the replacement dwelling;
 - h. Any costs of credit checks required to rent the replacement dwelling;

- i. Other moving related expenses as the grantee determines to be reasonable and necessary, except the following ineligible expenses:
 - 1) Interest on a loan to cover moving expenses; or
 - 2) Personal injury; or
 - 3) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Grantee; or
 - 4) Costs for storage of personal property on real property already owned or leased by the displaced person before the initiation of negotiations.

E. Rehabilitation Activities Requiring Permanent Displacement

The **City/County** rehabilitation program will not typically trigger permanent displacement and permanent displacement activities fall outside of the scope of this plan. If a case of permanent displacement is encountered, then the staff responsible for the rehabilitation program will consult with **City/County** legal counsel to decide if they have the capacity to conduct the permanent displacement activity. If local staff does not have the capacity, then a professional relocation consultant will be hired to do the counseling and benefit determination and implementation. If local staff does wish to do the permanent displacement activity then they will consult and follow the HUD Relocation Handbook 1378.

F. Rehabilitation Which Triggers Replacement Housing

If the **City/County** rehabilitation program assists a property where one or more units are eliminated then under Section 104 (d) of the Housing and Community Act of 1974, as amended applies and the **City/County** is required to replace those lost units. An example of this would be a duplex unit which is converted into a single family unit. In all cases where rehabilitation activities will reduce the number of housing units in the jurisdiction, then the **City/County** must document that any lost units are replaced and any occupants of reduced units are given permanent relocation benefits. (This does not apply to reconstruction or replacement housing done under a rehabilitation program where the existing unit(s) is demolished and replaced with a structure equal in size without in loss number of units or bedrooms.)

Replacement housing will be provided within three years after the commencement of the demolition or conversion. Before entering into a contract committing the **City/County** to provide funds for an activity that will directly result in such demolition or conversion, the **City/County** will make this activity public (through a noticed public hearing and/or publication in a newspaper of general circulation) and submit to the California Department of Housing and Community Development or the appropriate federal authority the following information in writing:

1. A description of the proposed assisted activity;
2. The location on a map and the approximate number of dwelling units by size (number

CDBGMM.7/05

- of bedrooms) that will be demolished or converted to a use other than as targeted income group dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
 4. The location on a map and the approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
 5. The source of funding and a time schedule for the provision of the replacement dwelling units;
 6. The basis for concluding that each replacement dwelling unit will remain a targeted income group dwelling unit for at least 10 years from the date of initial occupancy; and,
 7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units (e.g., a two-bedroom unit with two one-bedroom units) is consistent with the housing needs of targeted income group households in the jurisdiction.

The Grant's Coordinator at the **City/County** is responsible for tracking the replacement of housing and ensuring that it is provided within the required period. The **City/County** is responsible for ensuring requirements are met for notification and provision of relocation assistance, as described in Section 570.606, to any targeted income group displaced by the demolition of any dwelling unit or the conversion of a targeted income group dwelling unit to another use in connection with an assisted activity.

E. Record Keeping and Relocation Disclosures/Notifications

The **City/County** will maintain records of occupants of Federally funded rehabilitated, reconstructed or demolished property from the start to completion of the project to demonstrate compliance with section 104(d), URA and applicable program regulations. Each rehabilitation project, which dictates temporary or permanent or replacement activities, will have a project description and documentation of assistance provided. (See sample forms in HUD Relocation Handbook 1378, Chapter 1, Appendix 11, form HUD-40054)

Appropriate advisory services will include reasonable advance written notice of (a) the date and approximate duration of the temporary relocation; (b) the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; (c) the terms and conditions under which the tenant may lease and occupy a suitable, decent, safe, and sanitary dwelling.

Notices shall be written in plain, understandable primary language of the persons involved. Persons who are unable to read and understand the notice (e.g. illiterate, foreign language, or impaired vision or other disability) will be provided with appropriate translation/communication. Each notice will indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. The notices and process below is only for temporary relocation. If permanent relocation is involved then other sets of notice and noticing process and relocation benefits must be applied (See HUD relocation handbook 1378 for those forms and procedures) The Temporary Relocation Advisory Notices to be provided are as follows:

1. General Information Notice: As soon as feasible when an owner investor is applying for Federal financing for rehabilitation, reconstruction, or demolition, the tenant of a housing unit will be mailed or hand delivered a General Information Notice that the project has been proposed and that the tenant will be able to occupy his or her present house upon completion of rehabilitation. The tenant will be informed that the rent after rehabilitation will not exceed current rent or 30 percent of his or her average monthly gross household income. The tenant will be informed that if he or she is required to move temporarily so that the rehabilitation can be completed, suitable housing will be made available and he or she will be reimbursed for all reasonable extra expenses. The tenant will be cautioned that he or she will not be provided relocation assistance if he or she decides to move for personal reasons. **See Appendix A for sample notice to be delivered personally or by certified mail.**
2. Notice of Non Displacement: As soon as feasible when the rehabilitation application has been approved, the tenant will be informed that they will not be permanently displaced and that they are eligible for temporary relocation benefits because of lead based paint mitigation or substantial rehabilitation, or reconstruction of their unit. The tenant will also again be cautioned not to move for personal reasons during rehabilitation, or risk losing relocation assistance. **See Appendix B for sample notice to be delivered personally or by certified mail.**
3. Disclosure to Occupants of Temporary Relocation Benefits: This form is completed to document that the City/County is following it's adopted temporary relocation plan for owner occupants and tenants. **See Appendix C for a copy of the disclosure form.**
4. Other Relocation/Displacement Notices: The above three notices are required for temporary relocation. If the City/County is attempting to provide permanent displacement benefits then there are a number of other forms which are required. Staff will consult HUD's Relocation Handbook 1378 and ensure that all the proper notices are provided for persons who are permanently displaced as a result of housing rehabilitation activities funded by CDBG or other federal programs.

APPENDIX A

Dear _____,

On (date) , (property owner) submitted an application to the (City/County) for financial assistance to rehabilitate the building which you occupy at (address) .

This notice is to inform you that, if the assistance is provided and the building is rehabilitated, you will not be displaced. Therefore, we urge you not to move anywhere at this time. (If you do elect to move for reasons of your choice, you will not be provided relocation assistance.)

If the application is approved and Federal assistance is provided for the rehabilitation, you will be able to lease and occupy your present apartment (or another suitable, decent, safe and sanitary apartment in the same building) upon completion of the rehabilitation. Of course, you must comply with standard lease terms and conditions.

After the rehabilitation, your initial rent, including the estimated average monthly utility costs, will not exceed the greater of (a) your current rent/average utility costs, or (b) 30 percent of your gross household income. If you must move temporarily so that the rehabilitation can be completed, suitable housing will be made available to you for the temporary period, and you will be reimbursed for all reasonable extra expenses, including all moving costs and any increase in housing costs.

Again, we urge you not to move. If the project is approved, you can be sure that we will make every effort to accommodate your needs. Because Federal assistance would be involved, you would be protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

This letter is important and should be retained. You will be contacted soon. In the meantime, if you have any questions about our plans, please contact (name) , (title) , at (telephone number) , (address) .

Sincerely,

 (name)

 (title)

APPENDIX B

 (date)

Dear _____:

On (date) , we notified you that the owner of your building had applied for assistance to make extensive repairs to the building. On (date) , the owner's request was approved, and the repairs will begin soon.

This is a notice of non-displacement. You will not be required to move permanently as a result of the rehabilitation. This notice guarantees you the following:

1. You will be able to lease and occupy your present apartment [or another suitable, decent, safe and sanitary apartment in the same building/complex] upon completion of the rehabilitation. Your monthly rent will remain until after construction is completed. If increased after construction is done, your new rent and estimated average utility costs will not exceed local fair market rents for your community. Of course, you must comply with all the other reasonable terms and conditions of your lease.
2. If you must move temporarily so that the repairs can be completed, you will be reimbursed for all of your extra expenses, including the cost of moving to and from the temporarily occupied unit and any additional housing costs. The temporary unit will be decent, safe and sanitary, and all other conditions of the temporary move will be reasonable.

Since you will have the opportunity to occupy a newly rehabilitated apartment, I urge you not to move. (If you do elect to move for your own reasons, you will not receive any relocation assistance.) We will make every effort to accommodate your needs. Because Federal assistance is involved, you are protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

If you have any questions, please contact (name) , (title) , at (phone #) , (address) . Remember, do not move before we have a chance to discuss your eligibility for assistance. This letter is important to you and should be retained.

Sincerely,

(name and title)

APPENDIX C

DISCLOSURE TO OCCUPANT OF TEMPORARY RELOCATION BENEFITS

Top to be completed at time of loan application submittal or Home Visit

Property Address: _____
 ___ Rental Unit ___ Owner/Occupied Unit

The rehabilitation loan specialist working on behalf of the City/County of _____
has explained the temporary relocation services and benefits available under the current rehabilitation
program relocation plan.

I/we have been advised that the City/County of _____ rehabilitation construction specialist will
inform me if I need to be temporarily relocated and will to assist me with scheduling any necessary moves and
answer any questions about assistance as needed.

Acknowledged:

Occupant Signature Date Occupant Signature Date

Complete this at time of acceptance of Work Write Up with initials by occupant

The rehabilitation construction specialist for the City/County of _____
has explained the Rehabilitation Scope of Work for our house and I/we agree that it will:
___ Not require I/we to be relocated. **(If initialed then STOP here and sign bottom.)**
___ Yes, I/we need to be temporarily relocated. **(Complete rest of form if initialed.)**

Start date and duration of relocation:

___ Starting on or about _____ we will move for all or part of the rehabilitation project.
___ Approximate length of temporary relocation: _____ Number of days.

For temporary relocation, I/We elect to (check all that apply):

___ Relocate with friends and family.
___ Relocate into a suitable temporary housing unit identified by rehab specialist.
___ Relocate furnishings only into a temporary storage unit.

___ I/We have been told what our relocation benefits are and elect **Not** to be reimbursed for any eligible
relocation expenses.

___ I/We have been told what our relocation benefits are and want to be reimbursed for: _____

By signing, occupant(s) acknowledge receipt of copy of this form:

Occupant Signature Date Occupant Signature Date

HUD BUSINESS RELOCATION PROCESS MEMO 2002

SEE ADOBE FILE IN CHAPTER'S SUBDIRECTORY

SAMPLE
Disclosures to Seller with
Voluntary, Arm's Length Purchase Offer

This is to inform you that _____ (Buyer(s) Name(s)) would like to purchase the property located at _____ (Street Address or Other Property Identification), if a satisfactory agreement can be reached. Buyers are prepared to pay \$ _____ for clear title to the property under the conditions described in the attached proposed contract of sale.

Because Federal funds may be used in the purchase, however, we are required to disclose to you the following information:

1. The sale is voluntary. If you do not wish to sell, the Buyer will not acquire our property. The Buyer does not have the power to acquire your property by condemnation (i.e., eminent domain)
2. We estimate the fair market value of the property to be \$ _____.
3. As the Seller, I understand that this Program involves a city or county housing code inspection for basic health and safety and that most of these items will be repaired as part of the lending process.
4. As the Seller, I understand that public funds will be involved in this transaction and as such, all properties built on or before 1978 will require a lead paint disclosure to be signed by both the Buyer and Seller.
5. As the Seller, I understand that under the city/county's program, property must be currently owner occupied, vacant for four months at time of submission of purchase offer, or renter purchasing the unit.

I hereby certify that the unit is:

☐
☐
☐

☐ Vacant for four months
☐ Owner occupied
☐ Renter buying unit

The property meets the above stated criteria so federal and state relocation laws will not be triggered.

Since the purchase would be a voluntary, arm's length transaction, you would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation. Also, as indicated in the contract of sale, this offer is made on the condition that no tenant will be permitted to occupy the property before the sale is completed.

Again, please understand that if you do not wish to sell your property, we will take no further action to acquire it. If you are willing to sell the property under the conditions described in the attached contract of sale, please sign the contract and return it to us.

If you have any questions about this matter, please contact _____. His/Her telephone number is _____.

PROPERTY OWNER/SELLER

I hereby certify that I have read and understand this "Notice to Seller" and a copy of said Notice was given to me. All information contained in this Notice is true and correct to the best of my knowledge.

Signature: _____

Date: _____

Address: _____